

Newsletter

Volume XXVII, Number 2 Debtor-Creditor Section, Oregon State Bar Spring 2008

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COMMENTS FROM THE CHAIR

By Teresa H. Pearson

Miller Nash LLP

Toward the end of April I went to a restaurant near Tigard. It was busy and the hostess, a young woman, took my name and wrote it down for a table. A couple of minutes later, she looked up and said, "Hey, you're the lady that came to our class last week to talk about credit cards!" Yes, sure enough, Ray Streinz and I had given a CARE presentation to some juniors and seniors at Tigard High School the week before. The young hostess and I had a few brief minutes to talk, and she told me she had enjoyed the presentation and was glad we'd come. It was clear that she'd retained the information on credit that we had shared with the class. It really made me feel good to know that, in fact, the kids were listening and what we'd said may make a difference to them.

For those of you who haven't yet made a CARE presentation, I highly recommend it. It is an easy and fun way to volunteer for a good cause, and it is neither time-consuming nor difficult. As a practicing debtor-creditor lawyer, you already know how credit scores, credit cards, car loans, and student loans work. It doesn't matter if you ordinarily represent debtors or creditors, and there is no need to worry about conflicts, because the program is purely educational.

CARE classes are taught by two people. For your first presentation the CARE committee will generally pair you with someone who has presented before. You don't have to invent the presentation or materials from scratch – our able CARE committee has assembled a power point presentation, some written materials, and a short video to use to start the discussion with the class. Because the CARE program is expanding, and trying to reach a wide audience geographically, chances are good that you can make a presentation near where you work or live regardless of where you are in Oregon. Moreover, a long-term commitment is unnecessary – if you want to, you can sign on to teach only one or two classes. For more information, contact Laura Walker, 503-224-3092. Try it – I predict you will find it very rewarding!

While I'm on the subject of education, I'd also like to highlight the good work the New Lawyers' Committee of the section is doing. This year they have held:

- a trustee's panel presentation with chapter 7 trustees Ken Eiler and Tom Huntsberger,
- a panel presentation on professional liability issues

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with Johnston Mitchell of McEwen Gisvold, LLP, Richard Wyman of the Professional Liability Fund, and Todd Trierweiler of Trierweiler & Associates, and

- a panel presentation on chapter 13 issues with Wayne Godare and Jack Fisher, counsel for Portland Chapter 13 Trustee Brian D. Lynch, the Eugene Chapter 13 Trustee Fred Long, and Ann K. Chapman, of Vanden Bos & Chapman, LLP.

I attended the trustee's panel and the chapter 13 panel, and both were excellent programs. From all reports, the professional liability panel was good, too. The panelists did a great job answering questions presented by the new lawyers, and there was good give and take discussion between the panelists and the audience.

The New Lawyers' Committee welcomes all lawyers, both new

and experienced, to attend its presentations. To make the presentations more accessible to lawyers all over the state, the New Lawyers' Committee arranges for people to participate via the Bankruptcy Court's "Meet Me" telephone line. If you are a new lawyer, consider joining the committee to help plan future presentations. For those of you who are more experienced lawyers, please encourage the new lawyers that you know to become involved. For more information, contact Aaron Varhola (Portland) at 503-546-7913 or Natalie Scott (Eugene) at 541-868-8005.

SECTION WEBSITE

The Debtor-Creditor Section website, <http://osb-dc.org>, is now accepting postings for job vacancies.

HB 3630: THE MORTGAGE RESCUE FRAUD PROTECTION ACT OF 2008 AND NEW NOTICE REQUIRED UNDER OREGON TRUST DEED ACT

By Gary L. Blacklidge
Greene & Markley, PC

One new law to come out of the 2008 Special Legislative Session is HB 3630, which is aimed primarily at protecting homeowners in foreclosure situations. Sections 2 to 6 and 9 to 14 of the bill may be cited as the "Mortgage Rescue Fraud Protection Act." Sections 19 to 21 of HB 3630 amend the Unlawful Trade Practices Act and the Oregon Trust Deed Act.

Foreclosure Consultants

Sections 2 through 6 of HB 3630 regulate "Foreclosure Consultants," defined as persons who, with the intent to receive compensation from or on behalf of a homeowner, solicit or offer to assist the homeowner in, *inter alia*: preventing or stopping a foreclosure; obtaining a forbearance from a beneficiary or mortgagee; extending the reinstatement period; or obtaining a loan. Attorneys, family members, real estate licensees, banks

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The purpose of this publication is to provide information on current developments in the law. Attorneys using information in this publication for dealing with legal matters should also research original sources and other authorities.

and title companies are among those excepted from the definition of Foreclosure Consultants in Section 3.

Section 4 of HB 3630 requires a written "Foreclosure Consulting Contract" for a Foreclosure Consultant's services. The Contract must be written in a language spoken by the homeowner and provided to the homeowner at least 24 hours before the homeowner signs it. Section 4 also requires a prominent notice near the signature line advising the homeowner of the right to cancel the Contract at any time. Any provision for waiver of homeowner rights established in sections 2 to 6 is void under section 4.

Section 5 requires the Foreclosure Consultant to deliver to the homeowner a cancellation form with a prominent statement describing how to cancel, and provides such a form.

Section 6 proscribes certain activities of the Foreclosure Consultant, including taking a wage assignment, lien or other security in real or personal property; directly or indirectly acquiring any interest in the residence; arranging an Equity Conveyance (see below) for the homeowner; taking a power of attorney from the homeowner; and making any false, deceptive or misleading statements relating to foreclosure consulting contracts or services, foreclosures, or defaults.

Sections 7 and 8 of HB 3630 make violations of Sections 2 through 6 unlawful trade practices.

Equity Conveyances and Equity Purchasers

Sections 9 through 14 govern "Equity Conveyances" for residences in foreclosure. In an Equity Conveyance, the homeowner (or "Equity Seller") transfers an interest in a residence in foreclosure to an "Equity Purchaser," who subsequently conveys or agrees to convey an interest in the residence back to the homeowner, to allow the homeowner to possess the residence during or after the termination of the foreclosure. An Equity Conveyance is not a transfer by means of a nonjudicial foreclosure sale, sheriff's sale or judicial foreclosure action. Exceptions to the definition of Equity Purchaser include parties to deeds in lieu of foreclosure, trustees, debtors-in-possession and creditors' committees participating in bankruptcy proceedings, purchasers of property in sales approved by the bankruptcy court, and transfers to trusts if the homeowner is the beneficiary or member of the beneficiary of the trust.

Section 11 requires a written contract for every

Equity Conveyance, which must be provided to the homeowner at least 24 hours before the homeowner signs, and which must include a notice of the right to cancel. Section 11 also requires the contract to describe in detail the terms of the Equity Conveyance, including:

- the total consideration given,
- the time at which the interest will be transferred and terms of the transfer,
- all financial and legal obligations the homeowner will remain liable for,
- the services the Equity Purchaser will perform for the homeowner,
- the terms of any post-transfer conveyance or agreement for conveyance back to the homeowner, and any provisions for eviction or removal of the homeowner upon late payment,
- an explanation of how the repurchase price or fee will be calculated, and
- an explanation of the percentage of any equity recapture payment the homeowner will receive if the homeowner does not take title back but the residence is sold to a bona fide purchaser for value.

Section 12 explains the three-day cancellation right of the homeowner after the contract has been signed and includes the "How to Cancel" notice that the Equity Purchaser must provide to the homeowner.

Section 13 gives the Equity Purchaser several duties, including:

- to verify that the homeowner has or will have a reasonable ability to pay for the subsequent conveyance back to the homeowner, or to make the lease payments if the contract provides for a leaseback,
- to comply with the federal Home Ownership and Equity Protection Act (15 USC §1639),
- to ensure that the title or other interest is timely conveyed back to the homeowner,
- to pay the homeowner at least 82% of the equity recapture payment if the residence is resold within 24 months after entry into the Equity Conveyance Contract, and
- to record timely a memorandum of the agreement.

Section 13 prohibits the Equity Purchaser from:

- entering into repurchase or lease terms that are

commercially unreasonable or are unfair to the homeowner,

- representing that the Equity Purchaser is acting as a financial advisor or foreclosure consultant to the homeowner,
- making false representations about the Equity Purchaser's professional credentials that indicate knowledge or expertise in real estate transactions,
- representing that the Equity Purchaser is assisting the homeowner in preventing foreclosure if the Contract does not provide for the homeowner to completely redeem and regain title, and
- making any false, misleading or confusing statements about the value of the residence, the amount of proceeds the homeowner will receive after foreclosure, an Equity Conveyance Contract term, or the homeowner's rights or obligations under the Contract.

Section 14 establishes a rebuttable presumption for when the Equity Purchaser has violated Section 13(1)(a) (verifying homeowner's reasonable ability to pay). Section 14 also requires the Equity Purchaser to provide a detailed accounting to the homeowner if the residence is sold within 24 months after the Contract. The Equity Purchaser must present a memorandum of the agreement for recording when it presents the Equity Conveyance for recording, using the form provided in Section 14.

Section 15 allows the homeowner to seek to have the transfer of the interest to the Equity Purchaser declared an equity mortgage. Section 16 makes a violation of Sections 9 through 14 an unlawful trade practice.

Section 17 allows a homeowner to bring an action for damages resulting from a violation of Sections 9 through 14 and provides for treble damages if the court finds a knowing violation. Section 18 provides that a violation of Sections 2 through 6 or 9 through 14 is a misdemeanor punishable by not more than one year's imprisonment, a fine of not more than \$10,000, or both.

New Notice Required Under the Oregon Trust Deed Act

Sections 19, 20 and 21 of HB 3630 contain a big change for debtor-creditor practice. Section 19 provides that Sections 20 and 21 become part of the Oregon Trust Deed Act under ORS 86.705 to 86.795.

Section 20 requires a new notice to be sent to the grantor of a residential trust deed, in addition to the trustee's notice of sale under ORS 86.740 and the FDCPA Notice. The new notice must be: (1) in at least 14-point type, (2) sent on or before the date the trustee's notice of sale is sent, and (3) sent by both first class and certified mail, return receipt requested. Section 20 provides a form for the notice, which is intended to be less confusing to the typical residential trust deed grantor than the trustee's notice of sale. It must state the amount necessary to cure as of a date stated in the notice. The notice must also provide a toll-free telephone number that will allow the grantor access during regular business hours to person-to-person contact with an individual authorized by the beneficiary to discuss details of the default, repayment information, and loan term negotiation and modification options.

A beneficiary that made the loan with the beneficiary's own money for the beneficiary's own investment, and that is not in the business of making loans, need not have a toll-free number for the grantor to contact. HB 3630 does not address whether a seller who carries back part of the purchase price with a note and trust deed must have a toll-free number.

The new notice must also be sent to an occupant if the sender of the notice has actual knowledge that the grantor is not the occupant of the property covered by the trust deed. HB 3630 appears to leave out the grantor's successor-in-interest, who may occupy the property, where the sender of the notice may have only constructive notice of the transfer from the grantor.

Section 21 provides that, if the new notice is not sent to the grantor and the grantor does not actually receive the notice at least 25 days prior to the date the trustee conducts the sale, the grantor shall have the same rights possessed by the holder of a junior lien or interest that was omitted as a party defendant in a judicial foreclosure proceeding. Section 21 does not give this right to the successor-in-interest to the grantor nor to an occupant who is not the grantor. This section also gives the purchaser at the trustee's sale the same rights as a purchaser at a sheriff's sale following judicial foreclosure with regard to an omitted grantor.

Section 21 effectively gives the omitted grantor an unlimited right of redemption that may be eliminated by the purchaser through a subsequent judicial strict foreclosure of the kind discussed in *Portland Mtg. Co. v. Creditors Prot. Ass'n*, 199 Or 432, 262 P2d 918 (1953); and *Baggao v. Mascaro*, 77 Or App 627, 714 P2d 261 (1986).

Neither Section 20 nor Section 21 provides for any form of proof that the new notice was sent to the grantor of the residential trust deed. Accordingly, title to the residence will be clouded after the sale if proof that the notice was sent is not provided to the title companies. We recommend recording an affidavit of mailing along with the pre-sale recording affidavits under ORS 86.750, so the record will reflect and title companies can confirm that the notice was sent to the grantor.

The Debtor-Creditor Section Legislative Committee is sponsoring a bill for the 2009 Legislative Session to amend ORS 86.750(3) to add the requirement of recording an affidavit of mailing the new notice along with the other pre-sale recording affidavits, as well as a limitation on the omitted grantor's "right of redemption."

Effective Date

HB 3630 was effective on passage. The governor signed HB 3630 on March 11, 2008. Section 22 provides that Sections 2 through 6 apply to agreements for services by a Foreclosure Consultant entered into by a homeowner beginning 90 days or more after the effective date of the 2008 Act. Sections 9 through 14 apply to agreements entered into by homeowners beginning seven or more days after the effective date. And for those who do non-judicial foreclosures, Section 20 applies to residential trust deed properties for which a trustee's notice of sale under ORS 86.740 is sent beginning 90 or more days after the effective date of the 2008 Act.

You Too Can Be An Author

If you would like to write an article, or would like to read an article on a particular topic, please contact:

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Your letter should include the topic for the article and indicate whether you are willing to be the author.

UPDATE ON UNBUNDLING: WHAT'S NEXT FOR THE OREGON BANKRUPTCY COURT

**By Hon. Elizabeth L. Perris
and Teresa H. Pearson, Miller Nash LLP**

The Oregon Bankruptcy Court is moving toward implementing the unbundling of legal services in consumer chapter 7 cases. This article summarizes the history of the unbundling effort in Oregon, explains what types of unbundling the Bankruptcy Court intends to implement, and offers an update on what to expect in the coming months.

History of Unbundling in Oregon

In September 2007, the Bankruptcy Court held its second strategic planning session with management consultant Dale Lefever. This session brought the bankruptcy judges and clerk's office staff together with some chapter 7 and chapter 13 trustees, representatives of the U.S. Trustee's office, and private practitioners from firms of various sizes around the state to focus on big-picture issues affecting bankruptcy practice in Oregon. One serious concern raised was the increased cost of bankruptcy filings after Congress adopted the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). All the constituencies were interested in how to address the costs of bankruptcy so that the system will be affordable to potential filers and creditors; practical for the court, attorneys and trustees; and cost-efficient for taxpayers.

As one action item resulting from the strategic planning session, the Bankruptcy Court decided to address the unbundling of legal services in bankruptcy. Specifically, the Bankruptcy Court decided to develop a proposal for unbundling (including a model services agreement) and present the proposal for discussion at the Saturday Session on February 23, 2008. After the Saturday Session, the Bankruptcy Court would refine the proposal based on input from the bar, and the judges would vote on whether to adopt the refined proposal. If the unbundling proposal was accepted, the Bankruptcy Court would implement unbundling through an appropriate general order or amendment of the local rules.

The committee formed to address unbundling included Judge Elizabeth L. Perris, Judge Albert E. Radcliffe, Leslie Hardiman (a Management Analyst at the Bankruptcy Court), Assistant U.S. Trustee Pamela

Continued next page

Griffith, Todd Trierweiler (a consumer debtor's attorney), and Teresa H. Pearson (an attorney who does not represent consumer debtors).

To begin, Judge Perris and Pam Griffith gathered information on unbundling for the committee to consider. Judge Perris contacted Judge Maureen A. Tighe, a Bankruptcy Judge (and former United States Trustee) in the Central District of California who has done considerable legal research on unbundling and has developed a proposed local rule on unbundling for her jurisdiction's consideration. Judge Perris's law clerk Diane Bridge updated Judge Tighe's legal research. Judge Perris also provided information on unbundling practices around the circuit obtained from a previous meeting of the chief bankruptcy judges. In an effort to figure out how much chapter 7 legal services really cost and to determine what services are frequently excluded from the basic fee, Judge Perris's law clerk Margot Lutzenheiser looked at every tenth chapter 7 case filed in the District of Oregon from January 1, 2007, to October 23, 2007, and prepared a summary. Pam Griffith contacted other Assistant U.S. Trustees in Region 18 to obtain information on their experiences with unbundling.

The unbundling committee met on January 7, 2008, to consider the materials and the experience of other courts, and to debate the merits of unbundling. The committee decided to prepare a proposal, which would (1) identify what different levels of services consumer chapter 7 debtors' attorneys could provide on an unbundled basis, and (2) determine what disclosure and warnings must be provided to debtors considering unbundled services. The committee met again to consider specific proposals and to edit language. The final proposal suggested four levels of service (described below) and plain language to inform debtors about the risks of signing up for unbundled services. Shortly thereafter, the committee emailed its final proposal to all Saturday Session participants.

The Unbundling Proposal and the Saturday Session

At the Saturday Session on February 23, 2008, the committee presented its proposal for four levels of unbundled services for consumer chapter 7 debtors:

Level 1: With this level of service, the lawyer would assist the potential debtor prior to filing bankruptcy, but would not file the bankruptcy case. Specifically, the lawyer would meet with the debtor to discuss assets, liabilities, income and expenses; evaluate whether

bankruptcy is appropriate; provide advice on what chapter to file; talk about education or counseling requirements and document production obligations; and discuss exemptions, discharge, and other legal issues. The lawyer would prepare all necessary bankruptcy petitions, schedules, and forms, but the debtor would file those documents *pro se*. The lawyer would not be required to attend the §341(a) meeting or otherwise participate in the bankruptcy case.

Level 2: With this level of service, the lawyer would do all the tasks in Level 1, but would also file the bankruptcy case and become the attorney of record. The lawyer would handle creditors' calls before the meeting of creditors, and help the debtor respond to requests from the trustee, the U.S. Trustee, and creditors. The lawyer would handle any amendments to the schedules and statement of affairs required before the meeting of creditors, would assist the debtor with document production, and would represent the debtor at the meeting of creditors. After the meeting of creditors, the lawyer would explain any needed follow-up to the debtor, but would not be required to provide further services.

Level 3: With this level of service, the lawyer would do everything in Levels 1 and 2, but would also continue representing the debtor until the conclusion of the bankruptcy case. This level of service would not include handling adversary proceedings, however.

Level 4: This is full-service debtor representation, and would include the lawyer representing the debtor in the main case and all adversary proceedings.

At the Saturday Session, there was a lively discussion by the attorneys, court staff, trustees, and judges about the merits of the proposal. One attorney unable to attend Saturday Session also provided written comments to the committee. The consensus appeared to be that some level of unbundling would be appropriate, but that the bar did not favor adoption of the lowest level of services in the committee's proposal. Specifically, there were concerns that the lowest proposed level of services did not provide a real cost advantage to debtors; that it could lead to poor practices by attorneys who did not have any obligation to appear in the bankruptcy case; and that it would lead to logistical problems for the clerk's office. On the other hand, there was significant support for unbundling some activities, such as adversary proceedings, from chapter 7 consumer debtor representation.

After the Saturday Session, the committee exchanged views on the bar's comments by email. The Bankruptcy Court considered the unbundling proposal at its meet-

ing on February 29, 2008, and decided to proceed with a modified version of the unbundling proposal.

Bankruptcy Court Approval and Implementation of Unbundling

The judges decided that while the Oregon Bankruptcy Court would allow some unbundling of legal services for chapter 7 consumer debtors, it would not permit the lowest level of services proposed (Level 1 above).

LBR 9010-1 will be modified in the new version of the Local Bankruptcy Rules, which will be effective on August 8, 2008, to provide that an attorney may seek to withdraw as counsel for a chapter 7 debtor on the basis that the attorney and the client have agreed in writing that: (1) the attorney would represent the debtor for less than the entire case, (2) the attorney provided the client with written disclosures that clearly explained the duties the debtor might be required to perform without the attorney's assistance and the risks associated with the lack of representation, and (3) the attorney has completed all agreed-upon services. The minimum increment of services permitted is all legal services (other than representation in adversary proceedings) through and including the conclusion of the meeting of creditors.

Regardless of any unbundling agreement, the lawyer must file a motion to withdraw as attorney of record after completing the agreed services – otherwise, the attorney would remain the attorney of record and be required to continue providing services to the debtor in the case. To support the motion to withdraw, the lawyer must file a declaration that he or she completed the agreed services, and attach a copy of the fee agreement and the disclosures provided to the debtor as part of the employment process. If the bankruptcy judge decides that a hearing is necessary on the motion to withdraw, the hearing will generally be by telephone to keep the costs down. The issues at the hearings (when they occur) will typically be whether there were adequate warnings to the debtor about the risks of choosing unbundled services, and whether the attorney has completed the agreed services.

The Bankruptcy Court does not plan to adopt a safe harbor set of disclosures or warnings about the risks of choosing unbundled services. However, lawyers may want to consider the plain-English proposed disclosures and warnings drafted by the unbundling committee, posted at the Debtor-Creditor Section's website, www.osb-dc.org.

LEGISLATION ON DISCHARGE OF DEBT FOR PRINCIPAL RESIDENCE

By David McAdams
Cable Huston LLP

As a general rule, a debtor is required to include in his or her gross taxable income the amount of any indebtedness from which the debtor was discharged. There have been (and still are) exceptions to this general rule if the discharge occurs in a bankruptcy case, to the extent the debtor was insolvent prior to the discharge and with regard to discharge of qualified farm indebtedness. The Mortgage Forgiveness Debt Relief Act of 2007 (P.L. 110-142, Section 2(a)) provides an additional temporary exception to this general rule.

This new exception, set out in 26 USC §§108(a)(1)(E) and 108(h), allows a debtor who is discharged from paying "qualified principal residence indebtedness" **not** to include this discharged debt in gross taxable income. The new exception applies only if the discharge occurs on or after January 1, 2007, but before January 1, 2010. The term "qualified principal residence indebtedness" means up to \$2 million (\$1 million in the case of a married debtor filing a separate return) of indebtedness that was originally incurred in acquiring, constructing, or substantially improving the debtor's principal residence. *See* 26 USC §§108(h) and 163(h)(3)(B). New debt incurred to refinance an old qualified principal residence debt will be eligible for this tax break, but only to the extent the amount of the new debt does not exceed the unpaid balance of the old qualified principal residence indebtedness that was refinanced.

This relief provision does not apply to discharge of indebtedness incurred: (1) to acquire a property that is not a principal residence (such as a vacation home), (2) to acquire consumer goods, (3) to pay for vacations or entertainment, or (4) for uses otherwise not for the purposes of acquiring, constructing or substantially improving the debtor's principal residence.

In the case of a deed in lieu of foreclosure or transfer incident to a foreclosure, the transaction is segregated into two parts for tax purposes. The debtor has "discharge of indebtedness income" to the extent the debt discharged exceeds the fair market value of the principal residence. The temporary exception described above would exclude this amount from the debtor's gross taxable income. However, the debtor is treated as having sold the principal residence to the lender (or the purchaser on foreclosure sale) at a price equal to

the fair market value of the principal residence, and may have taxable gain to the extent the fair market value of the principal residence exceeds the debtor's adjusted income tax basis in the principal residence. Note that even if the value of the principal residence exceeds the debtor's adjusted income tax basis, the debtor may be able to exclude this gain from gross taxable income under a different provision, 26 USC §121. Section 121 allows the debtor to exclude up to \$500,000 for a joint return, or \$250,000 if filing a return as a single person, of this gain if the debtor has owned and used the property as the debtor's principal residence for periods aggregating two years or more out of the five years preceding either the deed in lieu of foreclosure or foreclosure sale.

The statute provides some tax relief for debtors who end up giving lenders a deed in lieu of foreclosure or who lose their principal residence as a result of foreclosure, where qualified principal residence indebtedness is discharged and the value of the principal residence is less than the amount of the debt prior to discharge. The debtor may receive a 1099 statement from the lender, reflecting the amount of debt that is discharged. Debtors in this situation should consult with tax advisors regarding the appropriate method of reporting the information on their tax returns.

OREGON JUDGMENT LIENS: STILL DESIGNED TO GIVE THE JUDGMENT DEBTOR A FIGHTING CHANCE

By Wendell Kusnerus
Davis Wright Tremaine LLP

A money judgment creates a judgment lien which attaches to all of the judgment debtor's real property in the county where the judgment is entered or recorded. In most states, the general rule is that a judgment lien takes priority over any conveyance (including a mortgage or trust deed) which was not recorded when the judgment lien attached. But in Oregon, reductions in court staffing led to delays in handling the paperwork and to a widening gap between the time when a judgment was entered and the time when a title company could find it. That convinced the 2005 legislature to change the rules.

Chapter 568 of 2005 Oregon Laws amended ORS 18.165 to provide that a conveyance would take priority over a judgment lien, as long as: (1) the grantee is a

purchaser in good faith and for valuable consideration; and (2) the conveyance or a memorandum thereof is recorded within 20 days (excluding Saturdays and legal holidays) after the conveyance is delivered or accepted. As a result, a good-faith purchaser with a pure heart but empty head took free of the judgment lien, as long as it got around to recording its conveyance within 20 business days (in effect, four calendar weeks). The law also gave a free pass to priority in favor of a mortgage, trust deed or other security instrument given to secure financing for the purchase of real property; in this case, there was not even a requirement of good faith.

The 2005 law gave judgment debtors two ways to frustrate enforcement of a judgment. The judgment debtor had what amounted to a four week window to convey real property to a good faith purchaser, either by an outright sale, or by a mortgage or trust deed. As long as the purchaser didn't check the judgment records, the conveyance would have priority over the judgment lien. Alternatively, the judgment debtor could purchase a new parcel of real property, using purchase money financing. The purchase money financing instrument would have priority over the judgment lien, and since the purchase money financing would typically represent the bulk of the property's value, the nonexempt cash used to complete the purchase would be effectively shielded from the judgment lien.

Chapter 166 of 2007 Oregon Laws amended ORS 18.165 to partially address these concerns. ORS 18.165(1)(a) now awards priority over a judgment lien to a subsequent conveyance only if: (1) the grantee is a purchaser in good faith for a valuable consideration; (2) the conveyance is delivered and accepted before the judgment is entered or recorded in the county where the property is located; and (3) the conveyance or memorandum is recorded within 20 days after delivery and acceptance of the conveyance (still excluding Saturdays and legal holidays). This amendment appears designed to prevent post-judgment transactions: since the conveyance has to be delivered and accepted before the judgment is entered or recorded, the judgment debtor cannot embark on a post-judgment campaign to sell or encumber real property to unsophisticated (or sophisticated) grantees who don't check for judgment liens. Of course, that theory may depend heavily on the accuracy of the notary's acknowledgement; otherwise, the date on which the conveyance was delivered and accepted would appear to be an issue where the evidence lies just about entirely within the control of the parties to the transaction. To be sure, the judgment debtor has to move fairly quickly, because the convey-

ance has to be recorded within that four-week window. But the judgment debtor would ordinarily have plenty of advance warning before the judgment is actually entered, so there is a clear opportunity for some asset protection planning for a judgment debtor (or prospective judgment debtor) who can find that purchaser with a pure heart and empty head.

ORS 18.165(1)(d), which gave blanket priority to post-judgment purchase money security instruments, was not amended in 2007. Therefore, asset protection planners should continue to look at the purchase of additional real property as a way to protect the debtor's net worth. Depending on the judgment debtor's financial condition, finding a lender to provide the purchase money financing may be a challenge, but if a lender is concerned about all those judgment liens, the judgment debtor can point to ORS 18.165(1)(d) and tell the lender not to worry.

NEW LAWYERS' COMMITTEE CHAPTER 7 TRUSTEE PANEL

By **Christopher L. Parnell**
Farleigh Wada Witt

On February 27, 2008, the New Lawyers' Committee of the Debtor-Creditor Section hosted a panel discussion with chapter 7 trustees Ken Eiler and Tom Huntsburger. The panelists answered questions posed by attendees on a wide range of subjects, including the impact of the subprime mortgage meltdown on case administration and adversary complaints; considerations for trustees and debtors' counsel in cases involving sole proprietorships; and how the post-BAPCPA reduction in petition filings has affected trustees' approach to pursuing assets.

The panelists were asked whether they would claim an interest in funds received by a debtor as a result of the Economic Stimulus Act of 2008 (the Act), which provides recovery rebates (technically known as advance credit payments) based on 2007 tax returns or information from the Social Security Administration or Veterans Administration. Citing *In re Lambert*, 283 BR 16 (9th Cir BAP 2002), the trustees said that they would likely claim an interest in such funds for cases filed on or after February 14, 2008, the day following the Act's effective date. The panelists' comments were for purposes of discussion and should not be interpreted as trustee policy.

The issue in *Lambert* was whether the estate was

entitled to funds received by debtors as a result of the Economic Growth and Tax Relief Reconciliation Act of 2001 (the 2001 Act), which provided rebate checks similar to those under the Act. 283 BR at 17. The trustee in that case argued that money received by debtors from the 2001 Act was a refund for (pre-petition) year-2000 taxes. *Id.* at 19. The Bankruptcy Court disagreed and held that the funds constituted advance payments on year-2001 anticipated tax refunds based on data from 2000. *Id.* at 20. The BAP affirmed and held that the refund check amount should be prorated according to the petition date rather than paid to the trustee based on the tax year prior to bankruptcy. *Id.* at 22.

NINTH CIRCUIT CASE NOTES

By **Matthew A. Goldberg**

Kirkpatrick & Lockhart Preston Gates Ellis, LLP

GOOD FAITH DEFENSE TO FRAUDULENT TRANSFER CLAIM AGAINST INVESTORS IN A PONZI SCHEME

In re AFI Holding, Inc., 2008 WL 1734583
(9th Cir April 16, 2008)

Debtor (AFI) operated a Ponzi scheme. The person behind the scheme, Gary Eisenberg, entered a guilty plea to securities and mail fraud charges. In his plea, Eisenberg admitted that AFI was a fraudulent investment scheme. On summary judgment, the trustee successfully avoided transfers from AFI to one of its "limited partners," Mackenzie, totaling almost \$90,000. Mackenzie's initial "investment" had been about \$73,000. Mackenzie appealed to the district court, which reversed as to that amount but affirmed the bankruptcy court holding that the purported "profit" of about \$16,000 was avoidable. The parties cross-appealed and the Ninth Circuit affirmed the district court.

The case turned on whether Mackenzie's relinquishing his partnership interest in exchange for the return of his initial \$73,000 investment constituted reasonably equivalent value.

The Ninth Circuit had previously distinguished between a "distribution on account of a partnership interest relative to an investor's capital contribution," *In re Agretech, Inc.*, 916 F2d 528, 540 (9th Cir 1990), and a "transfer in exchange for a proportionately reduced restitution claim," *In re United Energy Corp.*, 944 F2d 589, 596 (9th Cir 1991). The former is not reasonably

Continued next page

equivalent value, according to the Ninth Circuit, while the latter is.

In *Agretech*, the Ponzi scheme debtor had transferred assets to a partnership that was one of debtor's investors; the partnership transferee in turn transferred these assets to its limited partners. The limited partners sought to defend their receipt of funds using the "good faith defense," which requires them to have given reasonably equivalent value in exchange for the funds received. The Ninth Circuit held, however, that the good faith exception was inapplicable because the limited partners had received the funds from the partnership on account of their partnership interests, considered "equity securities" under the Code. This is not the same as giving "value," the court reasoned, which the Code defines as securing or satisfying a debt. *Agretech*, 916 F2d at 540.

In *AFI*, the court held that *United Energy* was controlling because in both cases the investors were defrauded into purchasing their interests. Because of this fraudulent inducement, Mackenzie, like the investors in *United Energy*, acquired a restitution claim at the time he bought into the AFI scheme. Mackenzie's receipt from the debtor of his initial "investment," therefore, was the functional equivalent of exchanging his partnership interest for a proportionately reduced restitution claim against the debtor. In contrast, the *Agretech* decision did not address whether the investors were defrauded and thus had restitution or rescission rights.

**DEBTOR'S PLEA AGREEMENT IS ADMISSIBLE
HEARSAY TO PROVE ACTUAL FRAUDULENT
INTENT FOR THE PURPOSE OF AVOIDING PONZI-
SCHEME FRAUDULENT TRANSFERS**

In re Slatkin, 2008 WL 1946739 (9th Cir May 6, 2008)

In another Ponzi-scheme case, the Ninth Circuit affirmed the bankruptcy court's holding that a debtor's admission – through guilty pleas and a plea agreement admissible under the Federal Rules of Evidence – to operating a Ponzi scheme with actual intent to defraud his creditors conclusively proves the existence of actual intent for the purpose of avoiding fraudulent transfers made as part of the Ponzi scheme.

Shortly after the debtor's chapter 11 filing, he was charged in a federal criminal case with mail fraud, wire fraud, money laundering and conspiracy. Debtor pled guilty to these charges pursuant to a plea agreement in which he admitted operating a Ponzi scheme. The bank-

ruptcy court granted summary judgment to the trustee on his avoidance claims against the Johnsons, transferees who had received millions of dollars in Ponzi scheme "profits" from the debtor. The bankruptcy court found the requisite actual fraudulent intent based solely on the debtor's guilty plea and plea agreement.

On appeal, the Johnsons argued that the bankruptcy court and district court had erred by 1) allowing the plea agreement, which was hearsay, into evidence; and 2) finding that the plea agreement conclusively established actual fraudulent intent. The Ninth Circuit held that the plea agreement was admissible hearsay under FRE 807, which requires the hearsay to have "circumstantial guarantees of trustworthiness" and be "more probative on the issues than any other evidence the Trustee could procure." The court found both of these requirements were met.

First, the plea agreement was accepted by the court in the criminal case and subjected the debtor to "severe criminal penalties," giving it sufficient trustworthiness in the Ninth Circuit's view. Second, the plea agreement was more probative than other available evidence as to the debtor's fraudulent intent in that the plea agreement contained actual admissions by the debtor of his intent to defraud his creditors. Normally, the court observed, such direct proof of fraudulent intent is unavailable, which is why trustees and other fraudulent transfer plaintiffs must rely on circumstantial evidence – the so-called badges of fraud.

As for finding the plea agreement to conclusively establish fraudulent intent, the court cited *AFI* (see above) and other cases for the proposition that the "mere existence" of a Ponzi scheme is sufficient to establish actual intent to defraud. Thus an admissible plea agreement containing direct evidence of the debtor's fraudulent intent was sufficient not only to establish actual intent to defraud, but also to do so conclusively and to prohibit relitigation of the intent issue.

**OREGON STATE BAR
DEBTOR-CREDITOR SECTION**

ANNUAL MEETING AND CLE

at Salishan Resort on the Oregon Coast
September 19 and 20, 2008

BAP CASE NOTES**By Doug Pahl**

Perkins Coie LLP

**WHEN THE BANKRUPTCY DECISION BACKFIRES,
THERE MAY NOT BE A RIPCORD***In re Hickman*, 384 BR 832 (9th Cir BAP 2008)

In *Hickman* the Bankruptcy Appellate Panel addressed whether it is as easy for a voluntary chapter 7 debtor to have his case dismissed as it was for that debtor to file the petition in the first place. In other words, may a chapter 7 debtor, after invoking the equitable jurisdiction of the bankruptcy court, later obtain dismissal of the bankruptcy case on the grounds that he prefers to pursue his Seventh Amendment jury trial rights in state court? The BAP agreed with the bankruptcy court in concluding that such “buyer’s remorse” does not constitute cause to dismiss under 11 USC §707(a).

Hickman attended the first meeting of creditors, as did counsel for Linda Hana, the plaintiff in stayed state court litigation against the debtor. Hana’s counsel questioned the debtor. The debtor did not like this. “Hana’s attorney began interrogating me at the 341a [sic] hearing and I felt that the hearing was becoming a deposition or a quasi-trial. I discussed my concerns with my counsel and decided to simply dismiss the bankruptcy and litigate the issues in state court before a jury of my peers.”

The debtor failed to attend multiple rescheduled meetings of creditors. He also failed to provide the information requested by the trustee or amend his schedules and statement of financial affairs. After three nondischargeability adversary proceedings were filed, including one by Hana, the debtor moved to dismiss the chapter 7 case, arguing that his desire to have the Hana litigation, including his counterclaims against Hana, tried to a state court jury provided sufficient “cause” for dismissal under §707(a).

The BAP first considered whether the debtor had a right to trial by jury in the Hana adversary proceeding. It concluded that by filing a voluntary chapter 7 petition, the debtor “invoked the equitable jurisdiction of the bankruptcy court to restructure his relations with his creditors and thereby agreed to litigate the adversary proceeding filed by Hana in the bankruptcy court that was addressed to her claim against him, and all counterclaims, in equitable proceedings in which the

Seventh Amendment does not apply.”

The BAP next addressed the debtor’s argument that the case should be dismissed for cause under §707(a) because he was being deprived of his jury trial rights in the state court proceeding. Section 707(a) lists three examples of “cause” for dismissal: (1) unreasonable delay prejudicial to creditors, (2) nonpayment of filing fees and (3) failure to file schedules. Courts will look to the totality of circumstances in the event that none of the three illustrative examples is present. In addition, a case will not be dismissed if dismissal would cause “some plain legal prejudice” to a creditor.

The BAP looked to the totality of the circumstances in resolving the motion to dismiss. Noting the debtor’s failure to meet his obligations as a debtor under the Bankruptcy Code and the fact that the debtor carried the burden of persuasion to demonstrate “cause,” the BAP held that the bankruptcy court had not abused its discretion in denying the debtor’s motion.

[T]here is an important interest related to the integrity of the bankruptcy system. When a debtor’s choice to commence a chapter 7 case backfires, a debtor is not entitled to escape by awarding himself a dismissal either by declining to perform his statutory duties or by recanting the commitment to have debtor-creditor relations adjusted in equitable proceedings.

**DISTRICT COURT APPEAL ELECTIONS: KEEP
YOUR “SEPARATE WRITING” PURE***In re Hupp*, 383 BR 476 (9th Cir BAP 2008)

FRBP 8001(e) states: “An election to have an appeal heard by the district court under 28 USC §158(c)(1) may be made only by a statement of election contained in a **separate writing** filed within the time prescribed by 28 USC §158(c)(1).” (Emphasis added.) In this case the debtor filed a pleading that included, among other requests, an election to have his appeal heard by the United States District Court. The BAP concluded that it had “jurisdiction to determine our jurisdiction” because the debtor’s election lacked the necessary purity.

The debtor brought an adversary proceeding seeking a determination that his student loan debt is subject to discharge. The bankruptcy court denied the debtor’s motion for summary judgment, granted a motion to strike a brief and set a date for trial to focus on whether the student loan debt would constitute an undue hardship under §523(a)(8). The debtor filed a notice of

appeal (without seeking leave to file an interlocutory appeal). Accompanying his notice of appeal was a document titled "Plaintiff Paul Hupp's Separate Statement of Election for Direct Appeal to the 9th Circuit Court of Appeals under 28 U.S.C. § 158." This document concluded by stating: "Alternatively, if the 9th Circuit Court of Appeals refuses to hear this matter, plaintiff seeks review in the United States District Court, Southern District of California." The bankruptcy clerk forwarded the pleadings to the BAP.

The BAP first addressed whether the debtor had made an effective election to have the district court hear his appeal, depriving the BAP of jurisdiction. In 28 USC §158(c)(1), Congress provided that bankruptcy appellate panels will hear appeals from bankruptcy court decisions unless a party elects to have the appeal heard by the district court. This statute, together with FRBP 8001(e), means that "there must be a separate written statement filed simultaneously with the notice of appeal" and that the "separate writing" cannot be joined with any other material.

The requirement of a separate writing relieves the clerk of difficulties of divining the appellant's intentions and relieves the BAP and district court of unnecessary, expensive, and time-consuming jurisdictional determinations that impede merits resolutions of disputes. This matters because confusion about jurisdiction over an appeal in a world in which there are alternative appellate routes to follow can lead to horrid problems of conflicting appellate orders; the workable solution requires literal application of the carefully-drafted rule of procedure that requires a "separate writing."

Citing dictionary sources, the BAP also reasoned that the plain meaning of "separate" in the rule "connotes independence." The panel concluded that the debtor's attempted election failed to meet the requirements of Rule 8001(e) and in fact exemplified the problems the rule was meant to address.

After determining that it **could** have jurisdiction due to the debtor's ineffective election, the panel concluded that it **did not** have jurisdiction because the debtor had not obtained leave to appeal the bankruptcy court's interlocutory order.

STATE COURT CASE NOTES

By Donald H. Grim

Greene & Markley, PC

WIFE'S ATTORNEY FEES NOT DISCHARGED

In re Marriage of Jacobs, 239 Or App 144,
182 P3d 244 (2008)

Husband and wife were divorced in 2005. Husband appealed the dissolution judgment on June 3, 2005. In October 2005, Husband filed a chapter 7 bankruptcy proceeding. He was granted a discharge on February 7, 2006. Husband's appeal of the dissolution judgment continued for nearly two years after his bankruptcy discharge.

Wife petitioned for attorney fees, pursuant to ORS 107.105(5), as the prevailing party in Husband's appeal of the dissolution judgment. Husband argued that the attorney fees, including those incurred post-discharge, were discharged in his bankruptcy.

The court awarded Wife attorney fees, at least in part because Husband did not present a sufficient record to allow the court to determine the outcome of his bankruptcy proceeding. The court observed, however, that even had the record been sufficient the court may still have ruled against him. Perhaps tipping its hand on a future opinion, the court observed in a footnote: The federal bankruptcy code, 11 USC section 523(5), excepts from a bankruptcy discharge 'domestic support obligations.' . . . Most states regard attorney fees awarded to a spouse as akin to spousal support. *See Klass v. Klass*, 377 Md 13, 27, 831 A2d 1067 (2003). Some bankruptcy courts have concluded that the debt for such fees is nondischargeable pursuant to 11 USC §523(a)(5) or (a)(15). *See In re Whitehurst*, 10 BR 229, 230 (Bankr D Fla 1981).

ELEVEN-YEAR-OLD FOREIGN JUDGMENT STILL ENFORCEABLE

Mountain Woodworks, Inc. v. Voss, 218 Or App 707,
180 P3d 735 (2008)

Plaintiff obtained a judgment against defendant in the United States Bankruptcy Court for the District of New Mexico. Eleven years later, plaintiff filed the bankruptcy judgment in Oregon, pursuant to Oregon's Uniform Enforcement of Foreign Judgments Act ("UEFJA"). ORS 24.105 to 24.175. Defendant responded by filing a motion to set aside the filing of the for-

eign judgment, in part under ORCP 71 B(1)(d) and (e), claiming that it was no longer a valid and enforceable judgment in New Mexico (which allows seven years to execute on a judgment). The trial court denied defendant's motion. The court of appeals affirmed.

Defendant argued, on appeal, that because the judgment was not enforceable in New Mexico (due to the seven year statute), it was not entitled to full faith and credit in Oregon and, therefore, was not a "foreign judgment" that could be filed in Oregon under the UEFJA. Although still premised on the expiration of the seven year period, defendant's argument was different than asserted below and, therefore, not preserved. The court observed that "[w]hether a judgment debtor, in the case of a foreign judgment that is unenforceable in the state of its issuance, is entitled to relief from that judgment once it has been filed in Oregon (defendant's argument below) is a separate question from whether that same judgment is entitled to full faith and credit in the first instance for filing in this state (defendant's argument on appeal)." Therefore, the court could not consider defendant's appeal on this issue.

Regardless, defendant's contention that the judgment was unenforceable in New Mexico was in error. In spite of the seven year statute of limitation, the judgment was still enforceable in New Mexico. This was so because a federal judgment must be domesticated in New Mexico before enforcement can occur; a judgment creditor in New Mexico has 14 years to domesticate a federal bankruptcy court judgment; and 14 years had not passed since the plaintiff had obtained his judgment.

The Debtor-Creditor Newsletter will accept camera-ready display ads

Advertising will be limited to those entities which provide goods and services to section members. Cost and ad sizes are:

Quarter page	\$150
Half page	\$250
Full page	\$450

For information, write: **Deborah S. Guyol**
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CONSUMER COMMITTEE REPORT

By Aaron R. Varhola

The Consumer Bankruptcy Committee (also known as the Circle of Love) usually meets every other month on the third Thursday of the month in the 8th Floor conference room at the United States Bankruptcy Court, 1001 SW 5th Avenue, Portland, Oregon 97204. The next meeting will be on June 19, 2008, at 4:30 PM. The committee is chaired by Laura Donaldson, 503-241-4869, laurad@vbcattorneys.com. To learn more about the Committee or to be added to the mailing list, please contact Ms. Donaldson.

April 10, 2008 Meeting

James Penney of Royal Moore Auto made a presentation. He reported that the used car market was getting tighter as lenders – including Citifinancial – pull out of the market. Penney said that UACC, Prestige, and Zions Bank continue to provide financing.

Chapter 13 Trustee Brian Lynch said he would allow \$400 per month in car payments up to a value of \$14,000 if the debtor's budget shows thriftiness. Ann Chapman argued that the \$471 per month IRS allowance for a vehicle should be presumed reasonable.

Lynch reported that his office will not pursue economic stimulus payments from debtors. Lynch also discussed two cases – *In re Johnson*, 380 BR 236 (Bankr D Or 2007), and *In re Riach*, 2008 WL 474384 (Bankr D Or 2/19/08) – which state that negative equity (where the unsecured portion of a previous auto loan is rolled into the new loan) is not considered a purchase-money security interest for a cramdown if the vehicle is purchased within 910 days of filing. According to Lynch, Judge Radcliffe in *Riach* announced the formula for the non-PMSI portion of the loan as the ratio of the amount of negative equity to the total amount of the loan.

In re Sanchez, 384 BR 574 (Bankr D Or 2008), holds that the equal monthly payments to the secured lender must begin no later than the time of confirmation, and that the loan must be repaid before the debtor's attorney's fees can be paid.

Judge Brown stated that if the IRS does not file an amended claim after the debtor files its tax returns, the debtor's attorney should object to an unassessed taxes claim until the IRS files an amended claim.

A case from Montana, *In re Wiegand*, 2008 WL 1733148 (9th Cir BAP 4/3/08), holds that a self-

Continued next page

employed debtor should not follow Form 22C and deduct business expenses from gross receipts to determine current monthly income (CMI), but rather that business expenses should be deducted from CMI. Judge Dunn approves of the treatment of business expenses in *In re Arnold*, 376 BR 652 (Bankr MD Tenn 2007).

Lynch distributed the revised language for standard language paragraphs.

Judge Perris distributed a draft revised Application for Supplemental Compensation in response to the complicated previous form, particularly the economic analysis of the impact of plan. Paragraph 6, relating to the effect on creditors, and paragraph 8, relating to time concerns, were added. The judge will have flexibility to order more documentation if requested.

Questions about motions to withdraw were posed to the judges, who said that if there were agreed services to be provided, plus disclosure, the judge has discretion to grant the motion or hold a phone hearing. The motions will be decided based on whether there were adequate warnings and whether the client actually agreed to limited representation.

Chapter 7 trustee Tom Renn stated that his office will be going after stimulus checks as part of the bankruptcy estate in cases filed after February 13, 2008. If a debtor is getting a tax refund from the IRS but owes Oregon taxes, the debtor should turn the check over to the trustee, who will pay the Oregon taxes.

Renn expressed displeasure with debtors and attorneys who do not fully disclose information to the trustee in documentation or at the §341 meeting. It is the debtor's duty to disclose all information, including family contributions to the debtor's expenses.

Renn also suggested that documents be sent to the trustees' email addresses, available on the Debtor-Creditor Section website or the US Trustee's Office website, not to the court's email address.

Renn observed that more blank Statements of Intent for secured debts were appearing, and that *In re Dumont*, 383 BR 481 (9th Cir BAP 2008), holds that the *Parker* ride-through is no longer applicable. Debtors must state whether they wish to reaffirm, redeem, or surrender property subject to a secured debt.

The next Circle of Love meeting will be Thursday, June 19, 2008, at 4:30 PM. All consumer bankruptcy practitioners, trustees, judges, and other interested persons are welcome to attend.

CARE COMMITTEE REPORT

The Debtor-Creditor Section launched a local chapter of the CARE (Credit Abuse Resistance Education) program in 2006. The program, founded by Judge John Ninfo of the U.S. Bankruptcy Court in Rochester, New York, provides education on credit to high school students. Additional information on the program is available at the web site www.careprogram.us.

During the 2007-2008 school year, committee volunteers and bankruptcy judges made presentations to approximately 91 classes at 28 Oregon high schools. Additional presentations have been scheduled for May and early June. The schools that received presentations so far this year are listed in the table to the right.

Many thanks to the speakers and volunteers who have given generously of their time and effort to make this program a success.

The CARE program continues to expand. We would like to add new schools each year and increase the number of students who hear the presentation. We maintain a list of volunteers and contact them as needed to meet the requests from schools. If you are interested in becoming a CARE volunteer, you can contact Laura Walker in Portland at (503) 224-3092 or email lwalker@cablehuston.com or Becky Kamitsuka in Eugene at (541) 465-6330 or email becky.kamitsuka@usdoj.gov.

Portland Area

High School	Date	No. of Presentations/ Students	Speaker(s)
Aloha High School	2/28/08	5 classes/90 students	Judge Brown & Dan Rosenhouse
Beaverton High School	12/10/07	1 class/35 students	Judge Perris & Rick Anderson
Canby High School	2/11/08 11/7/07	5 classes/125 students 5 classes/125 students	Judge Brown & Mike Blaskowsky Judge Brown & Mike Blaskowsky
Century High School	5/8/08 5/16/08	1 class/24 students 1 class/30 students	Doug Cushing Judge Dunn & Carla McClurg
David Douglas High School	5/15/08	Assembly/100 students	Johnston Mitchell & Martin Meyers
Grant High School	11/14/07 11/15/07 2/20/08 2/21/08	1 class/35 students 1 class/35 students 2 classes/70 students 3 classes/105 students	Gary Scharff & Judge Dunn Gary Scharff & Judge Dunn Gary Scharff & Craig Rusillo Gary Scharff & Martin Meyers
Home School Students	11/5/07	1 class/20 students	Judge Brown & Dan Rosenhouse
Jesuit High School	2/11/08	1 assembly/275 students	Judge Dunn & Gary Scharff
Mt. View H.S. (Bend)	2/5/08	1 class/30 students	Judge Perris & Jon Basham
Oregon Episcopal School	5/15/08	Assembly/60 students	Judge Brown & Tom Stilley
Parrot Creek Family & Child Services Center	2/26/2008	1 class/10 students	Vivienne Popperl & Carla McClurg
Roosevelt High School	3/5/08 & 3/12/08	1 class/20 students	Brian Lynch & Martin Meyers
South Salem	4/09/08	2 classes/ 36 students	Steve Tweet & Gary Scharff
Sunset High School	11/6/07	2 classes/80 students	Ann Chapman & Judge Perris
Tigard High School	4/16/08 4/17/08	1 class/55 students 2 classes/45 students 1 class/55 students 1 class/30 students 1 class/30 students	Teresa Pearson & Ray Streinz Dan Rosenhouse & Richard Fritz Ray Streinz & Johnston Mitchell Christopher Coyle & Craig Russillo Christopher Coyle & Cathy Travis
Tualatin High School	10/25/07 10/26/07 3/10/08 3/11/08	2 classes/70 students 3 classes/100 students 1 class/15 students 2 classes/80 students	Carla McClurg & Wayne Godare Judge Perris & Teresa Pearson Carla McClurg & Alan Painter David Hercher & Jeff Spere

Eugene Area

High School	Date	No. of Presentations/ Students	Speaker(s)
Ashland High	3/13/08 3/14/08	4 classes/100 students	Judge Alley & Matt Sutton
Crow Middle/High School	3/11/08	Assembly/110 students	Judge Radcliffe, Judge Carlson & Becky Kamitsuka
Cottage Grove High	11/19/07	3 classes/50 students	Judge Radcliffe & Gail Geiger
Marist High	5/14/08 5/15/08	2 classes/46 students 1 class/23 students	Judge Carlson & Becky Kamitsuka Gail Geiger
McKenzie High	11/28/07	1 class/25 students	Gail Geiger & Robin Church
North Eugene High	10/23/07 10/31/07	1 class/25 students Assembly/180-200 students	Judge Carlson & Don Churnside Becky Kamitsuka, Judge Carlson & Jim Files
Pleasant Hill High	10/15/07 10/15/07	1 class/30 students 3 classes/90 students	Robin Church & Jim Files Judge Radcliffe, Nancy Radcliffe & Robert Russell
Pleasant Hill Middle School	3/20/08	1 class/60 students	Judge Carlson & Becky Kamitsuka
Sheldon High	12/6/07 5/7/08	Assembly/50 students 1 class/18 students	Becky Kamitsuka & Jim Files Judge Radcliffe & Becky Kamitsuka
Springfield High	9/20/07 10/24/07 2/28/08 5/6/08	3 classes/75 students 2 classes/60 students 3 classes/90 students 3 classes/60 students	Jim Files & Robin Church John Butler & Dan LaMarche John Butler & Dan LaMarche Jim Files & Robin Church
South Eugene High	10/17/07 1/8/08	3 classes/90-120 students Parent/Student Assembly/50 total	Nancy Radcliffe, Rick Harder & Julia Manela Judge Radcliffe, Judge Carlson & Nancy Radcliffe
Willamette High	5/8/08 5/9/08	4 classes/100 students 2 classes/50 students	Gail Geiger Jim Files

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