Oregon Supreme Court hears two cases at U of O law school

by Bend_Weekly_News_Sources

The Oregon Supreme Court heard arguments in an Astoria environmental pollution case and a personal injury liability case against the city of Lakeside during its annual visit to the University of Oregon School of Law on Tuesday, March 6.

Oral arguments were heard in the Knight Law Center, with the sessions open to the public.

Chief Justice Paul De Muniz presided, along with associate justices Thomas Balmer, Robert Durham, Michael Gillette, Rives Kistler, Virginia Linder and Martha Walters. Details about the cases heard are listed below.

ETU, Inc. v. Environmental Quality Commission:

While upgrading his underground gas tanks near Astoria, Warrenton gas station owner Ed Niemi was told by officials with the Oregon Department of Environmental Quality (DEQ) to clean up contaminated soil and water near the tanks. He did not do it to their satisfaction for three years.

Niemi's attorney, Allan Bakalian, asked DEQ officials to notify him if they intended to take action. DEQ officials told him they were in the process of issuing penalties. However, the agency sent the official notice of violation and penalty assessment to Niemi's registered agent, not to his attorney.

The DEQ did not hear from Niemi or his agents for twenty days, at which time the penalty became final. Shortly after that, Bakalian requested a late hearing and the DEQ denied it. Five months after the penalty became final, the attorney requested judicial review of the agency's decision. (Ordinarily, a person must challenge such a decision within 60 days after a penalty becomes final.) The Supreme Court will consider whether the DEQ properly refused the request for a late hearing. The Court will also clarify the time frame in which a person must seek judicial review of a state agency's decision. (Justice Linder did not participate.)

Baker v. City of Lakeside:

Kathryn R. Baker was injured in 2002 when a truck driven by an employee of the city of Lakeside collided with her car. Baker filed a complaint in the county courthouse within the two-year statute of limitations established by the Oregon Tort Claims Act, which allows people to make claims against local governments.

Decisions have not yet been released.

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