

## Series of Oregon class action suits challenge insurers

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Thousands of people who insured their homes and cars through Hartford Fire Insurance Co. and its subsidiaries are eligible for refunds if the company failed to tell them their credit scores led to higher rates.

The refunds are part of a settlement agreement in a complex group of federal cases against seven insurers, all originally filed in Oregon and reviewed all the way up to the U.S. Supreme Court.

The series of seven federal class action lawsuits alleged that Hartford and six other insurers violated the federal Fair Credit Reporting Act when they used credit information to set rates without notifying customers.

The Hartford case is the most recent to settle and could yield millions in payments to affected policyholders across the country.

Stoll Stoll Berne Lokting & Shlachter PC, a Portland law firm, sued Hartford and the six other insurers in 2003 in U.S. District Court for Oregon.

The team sued State Farm Insurance Group, Farmers Insurance Group, Government Employees Insurance Co. (Geico), Safeco Corp., the Progressive Group of Insurance Cos. and Nationwide Mutual Insurance Co.

The cases are in various stages of litigation or settlement.

In the Hartford case, the insurance company prevailed when the suit was tried in Portland. The policyholders appealed to the Ninth Circuit Court, which reversed the lower court ruling.

At that point, Nationwide settled its case for \$19.25 million, said Steve Larson, the Stoll Stoll attorney who took the issue of consumer notification from district court to the Supreme Court. Hartford followed Nationwide in negotiating a settlement.

In late February, U.S. District Court Judge Anna Brown of Oregon approved the settlement, under which more than 700,000 policyholders whose rates were affected

will receive money back. Settlement forms will be mailed on April 30 and must be returned by June 28.

Under the terms, Hartford policyholders are eligible for payments of \$100 to \$1,000, with most payments expected to be \$150 or more. Only those policyholders who weren't notified their credit reports were being used to raise their insurance rates are eligible.

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**Steve Larson**  
Stoll Stoll Berne Lokting & Shlachter

The case was initially filed on behalf of Matthew Rausch and Jason Reynolds against Hartford Insurance Company of the Midwest, Omni Insurance Co. and Property and Casualty Insurance Company of Hartford, and all subsidiaries of Hartford Fire Insurance Co., a holding of The Hartford Financial Services Group Inc.

Reynolds is the lone remaining class representative in the case.

Hartford, which reported 2006 revenue in excess of \$26.5 billion, didn't include the Oregon-based credit scoring suit in its discussion of significant lawsuits in its 2005 or 2006 annual report, suggesting management doesn't believe the suits will materially affect the insurance giant.

Larson, teaming with Scott Shorr, a trial and appellate attorney at Stoll Stoll, argued the Geico and Safeco cases before the U.S. Supreme Court in January, after first presenting it to moot courts at both Harvard University and Georgetown University.

As of April 17, the high court had yet to announce its ruling.

The cases involving State Farm and

Progressive were stayed pending the Supreme Court's ruling in Geico and Safeco, Larson said.

Although the legalities of the seven-part case are complex, the principal really is not, said Larson.

The case sprang up in Oregon in 2001 after Charles Ringo, who was then serving in the Oregon Senate, failed in his attempt to pass legislation barring insurers from using credit report information to compute rates.

In researching the issue, Ringo learned that it is legal to use credit scores, but that under the federal Fair Credit Reporting Act, they had to tell customers about it first.

Alleging that many of the largest insurance companies in the region weren't doing that, he teamed with Larson and Stoll Stoll to sue seven. Ringo served as an attorney in the original case and traveled to Washington in January for the airing in the Supreme Court.

Larson said the law on the use of credit information is straightforward: If insurance companies use credit scores to set premiums, they have to give customers notice.

It's difficult to assess exactly how insurers use credit scores — it's treated as a confidential business process — but insurers routinely review credit reports for new policyholders.

"They look at the credit scores of everyone who applies for insurance. If you switch or apply, they're going to look at your credit score. In 80 to 90 percent of situations, you're not going to get the best rate because of your credit scores. It is surprising how many people are impacted," Larson said.

The tie between credit scores and insurance rates is nothing new to Oregonians.

Last fall, voters rejected a ballot measure that would have severed the tie between credit scores and insurance rates. Measure 42 failed with 876,075 "no" votes to 479,935 "yes" votes.

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