

# New in the Law: *Court Case Updates*

## Class Actions

# Two Important Developments Handed Down

**T**wo important decisions relating to class actions have recently been handed down by the Federal and Oregon Court of Appeals.

In *Ashby, et al. v. Farmers Insurance Company of Oregon*, USDC Case No. CV 01-1446 BR, Judge Brown certified a class of approximately 130,000 automobile and property insurance policyholders of Farmers Insurance Company of Oregon. They allege that Farmers failed to provide the notice required under the Fair Credit Reporting Act (“FCRA”) after increasing premiums based on the customer’s consumer credit report. If plaintiffs prove that Farmers willfully violated the FCRA, each class member is entitled to statutory damages ranging from \$100 to \$1,000. This decision follows on the heels of a separate ruling in *Chamberlan v. Ford Motor Co.*, 402 F.3d 952 (2005) in which the court is leaving class certification issues largely up to the discretion of district court judges. Given the recent enactment of the Class Action Fairness Act, class action lawyers will increasingly find themselves litigating these cases in federal courts, so the Ashby and Chamberlan decisions may be particularly important.

Plaintiffs are represented by **Steve Larson** and **David Rees** of the **Stoll Stoll Berne Lokting & Shlachter, P.C.** law firm, as well as by **Charles Ringo**, who originated the case.

In *Wilson v. Smurfit Newsprint Corp.*, 197 Or App 648 (2005), the Oregon Court of Appeals held that the trial court properly certified a class for the recovery of statutory minimum penalties under ORS 652.615 for making unauthorized wage deductions. On this issue of first impression, the court rejected the employer’s argument that a limitation in ORCP 32K on certain statutory penalty class actions precluded certification of the class. The court held that the class action limitation for statutory penalties only applies to claims under consumer protection statutes. The court of appeals ruled that plaintiffs are entitled to recover penalties for their former employer’s unauthorized deductions, penalties for failure to timely pay severance pay and prejudgment interest. Plaintiffs are represented by **Steve Larson** and **Christina Beatty-Walters** of **Stoll Stoll Berne Lokting & Shlachter P.C.**, as well as by **Barton C. Bobbitt**, who originated the case.