

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 03-35669		Docketed: 08/14/2003		
Nature of Suit: 3410 Antitrust		Termed: 04/11/2007		
Ross-Simmons Hardwd, et al v. Weyerhaeuser Company				
Appeal From: U.S. District Court for Oregon, Portland				
Fee Status: Paid				
Case Type Information:				
1) civil				
2) private				
3) null				
Originating Court Information:				
District: 0979-3 : CV-00-01693-OMP				
Court Reporter: Julie A. Colling, Court Reporter				
Court Reporter: Dennis Grube, Court Reporter				
Court Reporter: Amanda M. LeGore, Official Court Reporter				
Trial Judge: Owen M. Panner, Senior District Judge				
Date Filed: 12/08/2000				
Date Order/Judgment:	Date NOA Filed:			
07/08/2003	07/31/2003			
Prior Cases:				
None				
Current Cases:				
	Lead	Member	Start	End
Companion	03-35669	03-35984	12/09/2003	

<p>CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON Plaintiff,</p>	<p>Julie A. Weis, Esquire, Attorney [COR LD Retained] Haglund Kelley Jones & Wilder, LLP 200 SW Market Street Portland, OR 97201</p> <p>LeRoy W. Wilder, Esquire, Attorney Direct: 503-242-0705 [COR LD Retained] Suite 10 225 Southwest Montgomery Street Portland, OR 97201</p>
<p>SMOKEY POINT HARDWOOD, INC. Plaintiff,</p>	<p>Julie A. Weis, Esquire, Attorney [COR LD Retained] (see above)</p> <p>LeRoy W. Wilder, Esquire, Attorney Direct: 503-242-0705 [COR LD Retained] (see above)</p>
<p>ROSS-SIMMONS HARDWOOD LUMBER COMPANY, INC. Plaintiff - Appellee,</p>	<p>Michael K. Kelley, Bankruptcy Counsel Direct: 503-225-0777 [COR LD Retained] Haglund Kelley Jones & Wilder, LLP Suite 1800 200 SW Market Street Portland, OR 97201</p> <p>Roy Pulvers Direct: 503-243-2300 [COR LD NTC Retained] HOLLAND & KNIGHT LLP 2300 US Bancorp Tower 111 SW Fifth Avenue Portland, OR 97204</p> <p>Julie A. Weis, Esquire, Attorney</p>

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CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON; SMOKEY POINT HARDWOOD, INC.,

Plaintiffs,

and

ROSS-SIMMONS HARDWOOD LUMBER COMPANY, INC.,

Plaintiff - Appellee,

v.

WEYERHAEUSER COMPANY,

Defendant - Appellant.

- 08/14/2003 2 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): n. setting schedule as follows: appellant's designation of RT is due 8/11/03; appellee's designation of RT is due 8/20/03; appellant shall order transcript by 9/2/03; court reporter shall file transcript in DC by 9/30/03,, ; certificate of record shall be filed by 10/7/03 ; appellant's opening brief is due 11/17/03; appellees' brief is due 12/16/03; appellants' reply brief is due 12/30/03. [03-35669] (GR) [Entered: 08/14/2003 03:39 PM]
- 08/14/2003 3 filed notice of representation. [03-35669] (GR) [Entered: 08/14/2003 03:40 PM]
- 08/14/2003 4 Filed Heather N. Leal for Appellant Weyerhaeuser Company Civil Appeals Docketing Statement served on 7/31/03 (to CONFATT) [03-35669] [03-35669] (GR) [Entered: 08/14/2003 03:40 PM]
- 08/22/2003 8 Filed aptl's notice of order of transcript. RT ordered 08/22/03. [03-35669] (XX) [Entered: 08/27/2003 09:07 AM]
- 09/02/2003 10 Filed order CONFATT (bs) Case referred to Confatt for assessment conference only. Conference to be on 9/24/03 at 2:00pm Pacific (S.F.) Time. By telephone (y/n): y. The briefing schedule previously set by the court remains in effect. [03-35669] (XX) [Entered: 09/02/2003 08:51 AM]
- 09/29/2003 11 Filed order CONFATT (LJE)The ct has determined that this appeal will not be selected for inclusion in the medtion program.... [03-35669] (CW) [Entered: 09/29/2003 07:09 AM]
- 09/29/2003 12 Rec'd notice of change of law firm address from Julia E. Markley , Thomas R. Johnson , Michael H. Simon dated 9/25/03. New: 1120 N.W. Couch Street 10th Floor Portland, OR 97209-4128. Phone, fax and email remain the same. Computers. [03-35669] (CW) [Entered: 09/30/2003 10:00 AM]
- 10/29/2003 13 14 day oral extension by phone of time to file Appellant brief. [03-35669] appellants' brief due 12/1/03; appellees' brief due 12/31/03; appellants' reply brief due w/in 14 days of svc of aple's brief. (KM) [Entered: 10/29/2003 02:19 PM]
- 11/03/2003 14 Filed aple Ross-Simmons Hardwood's notice of association of Roy Pulvers as counsel; served on 10/30/03 (CASEFILES) [03-35669] (HH) [Entered: 11/04/2003 10:27 AM]
- 11/06/2003 15 Filed certificate of record on appeal RT filed in DC 10/14/03 [03-35669] (HH) [Entered: 11/06/2003 03:51 PM]
- 11/28/2003 16 Filed original and 15 copies Appellant Weyerhaeuser Company opening brief (Informal: n) 49 pages and five excerpts of record in 3 volumes; served on 11/26/03 [03-35669] (GR) [Entered: 11/28/2003 02:49 PM]
- 12/10/2003 18 Filed Ross-Simmons Hardwd in 03-35669 motion to extend time to file appellee's brief served on 12/8/03 wip/PROMO. (KKW) [Entered: 12/11/2003 11:29 AM]
- 12/10/2003 20 Filed Appellant Weyerhaeuser Company's opposition to aple's motion for 90-day ext of time to file brief [18]; served on 12/9/03 (motion recvd 12/9/03) (PROMO) [03-35669] (HH) [Entered: 12/16/2003 05:17 PM]
- 12/12/2003 21 Filed Appellee Ross-Simmons Hardwd's resply in support of motion for ext of time to file brief of appellee [18]; served on 12/10/03 (PROMO) [03-35669] (HH) [Entered: 12/16/2003 05:19 PM]
- 12/17/2003 22 Filed order (Deputy Clerk: lkk) Aple's opposed motion for an ext to file the answering brief is GRANTED in part. [18] The answering brief is due 3/2/04. The optional reply brief is due 14 days after date of service of the ans brf. Any further request for an ext of time to file the answering brief is strongly disfavored. [03-35669] (HH) [Entered: 12/17/2003 01:50 PM]
- 03/03/2004 23 Filed original and 15 copies appellee Ross-Simmons Hardwood's 68 pages brief, and 5 suppl excerpts in 3 vols.; served on 3/2/04 [03-35669] (HH) [Entered: 03/03/2004 11:54 AM]
- 03/10/2004 25 Filed motion and deputy clerk order PROMO:(Deputy Clerk: lkk) Aptl's motion for a 30-day ext of time to file reply brief is GRANTED. [25] The optional reply brief is now due 4/19/04. (Motion recvd 3/5/04) [03-35669] (HH) [Entered: 03/10/2004 11:17 AM]
- 03/10/2004 26 Filed Appellee Ross-Simmons Hardwd's opposition to aptl's motion for 30-day ext of time to file reply brief [25]; served on 3/8/04 (nan/promo) (CASEFILES) [03-35669] (HH) [Entered: 03/12/2004 04:27 PM]
- 03/10/2004 27 Filed Appellant Weyerhaeuser Company's reply in support of motion for 30-day text of time to file reply brief [25]; served on 3/9/04 (nan/promo) (CASEFILES) [03-35669] (HH) [Entered: 03/12/2004 04:28 PM]
- 04/19/2004 29 Filed original and 15 copies Weyerhaeuser Company reply brief, (Informal: no) 23 pages; served on 4/19/04 [03-35669] (CW) [Entered: 04/21/2004 07:20 AM]
- 07/02/2004 30 Received appellee Ross-Simmons Hardwood's additional citations, served on 7/1/04 (***) RECORDS FOR MERITS PANEL (***) [03-35669] (HH) [Entered: 07/02/2004 12:57 PM]
- 07/13/2004 31 Received M. Laurence Popofsky for Appellant Weyerhaeuser Company letter dated 7/13/04 re: response to add citations. RECORDS FOR MERITS PANEL [03-35669] (GR) [Entered: 07/14/2004 12:10 PM]
- 07/23/2004 33 Calendar check performed [03-35669, 03-35984] (TH) [Entered: 07/23/2004 08:45 AM]
- 10/13/2004 34 Calendar materials being prepared. [03-35669, 03-35984] [03-35669, 03-35984] (TH) [Entered: 10/13/2004 11:06 AM]
- 10/14/2004 35

- CALENDARED: Portland Dec 6 2004 9:00 a.m. Courtroom 16 [03-35669, 03-35984] (TH) [Entered: 10/14/2004 09:48 AM]
- 12/06/2004 36 ARGUED AND SUBMITTED TO Thomas G. NELSON, Johnnie B. RAWLINSON, William W. Schwarzer [03-35669, 03-35984] (ME) [Entered: 12/06/2004 02:04 PM]
- 05/31/2005 40 FILED OPINION: AFFIRMED (Terminated on the Merits after Oral Hearing; Affirmed; Written, Signed, Published. Thomas G. NELSON, author; Johnnie B. RAWLINSON; William W. Schwarzer.) FILED AND ENTERED JUDGMENT. [03-35669, 03-35984] (HH) [Entered: 05/31/2005 10:20 AM]
- 06/10/2005 41 Filed Appellee Ross-Simmons Hardwood's bill of costs (\$954.80), served on 6/9/05 [03-35669] (HH) [Entered: 06/10/2005 02:51 PM]
- 06/14/2005 42 [5463881] Received original and 50 copies Appellant Weyerhaeuser Company's petition for rehearing and for rehearing en banc, 19 pages ("376 lines"), served on 6/14/05 (did not specify word count in cert of compliance) Notified counsel. (HH) [Entered: 06/14/2005 04:24 PM]
- 06/15/2005 43 [5465395] Filed original and 50 copies Appellant Weyerhaeuser Company's petition for rehearing or rehearing en banc, 18 p. pages, served on 6/14/05 (PANEL, ALL ACTIVE JUDGES AND INTERESTED SENIOR JUDGES) [03-35669, 03-35984] (HH) [Entered: 06/15/2005 04:27 PM]
- 07/08/2005 46 Filed order (Thomas G. NELSON, Johnnie B. RAWLINSON, William W. Schwarzer,): Apt's petition for rehearing and petition for rehearing en banc are DENIED. [43] [03-35669, 03-35984] (HH) [Entered: 07/08/2005 09:56 AM]
- 07/14/2005 47 Filed Appellant Weyerhaeuser Company's motion for stay of the mandate pending petition for certiorari; declaration of Heather N. Leal; served on 7/14/05 [5497676] (to PANEL) [03-35669, 03-35984] (HH) [Entered: 07/14/2005 03:43 PM]
- 07/25/2005 50 Filed Ross-Simmons Hardwd motion to for attorney(s)' fees in the amount of \$642,584.80 [03-35669] served on 7/22/05 [5511907] (GR) [Entered: 07/27/2005 11:40 AM]
- 07/27/2005 49 Filed order (Thomas G. NELSON, Johnnie B. RAWLINSON, William W. Schwarzer,): granting appellant's motion to stay the mandate pending application for writ of cert. [47] The mandate is stayed for 60 days pending the filing of a pet for writ of cert in the Sup Ct. If a pet is filed, the stay shall continue until further disposition by the Sup Ct. [03-35669, 03-35984] (GR) [Entered: 07/27/2005 08:32 AM]
- 08/05/2005 51 Filed Appellant Weyerhaeuser Company's opposition and response to aple's motion for award of attorney fees [50]; exhibit; served on 8/5/05 (to PANEL) [03-35669, 03-35984] (HH) [Entered: 08/08/2005 05:31 PM]
- 08/12/2005 54 Filed order (Thomas G. NELSON, Johnnie B. RAWLINSON, William W. Schwarzer,): Consideration by the panel of aple's "motion for award of attorney fees" is STAYED pending further order of the court. [03-35669, 03-35984] (HH) [Entered: 08/12/2005 09:39 AM]
- 08/15/2005 55 Filed Appellee Ross-Simmons Hardwood's reply in support of motion for award of attorney fees [50]; served on 8/12/05 (to PANEL) [03-35669, 03-35984] (HH) [Entered: 08/16/2005 04:34 PM]
- 09/27/2005 56 Received Appellant Weyerhaeuser Company's notice of filing of petition for certiorari in the US Supreme Court; served on 9/27/05 (HH) [Entered: 09/30/2005 10:08 AM]
- 10/03/2005 57 Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 05-381 filed on 9/23/05. [03-35669, 03-35984] (HH) [Entered: 10/04/2005 10:38 AM]
- 07/03/2006 61 Received notice from Supreme Court, petition for certiorari GRANTED on 6/26/06. Supreme Court No. 05-381. (HH) [Entered: 07/21/2006 12:05 PM]
- 07/17/2006 59 MANDATE ISSUED. Costs taxed. [03-35669, 03-35984] (HH) [Entered: 07/17/2006 10:05 AM]
- 07/19/2006 63 Received Appellant Weyerhaeuser Company letter dated 7/19/06 re: We received yesterday indicating that the mandaet has now issued in these two cases. A review of the court's docket for these 2 matters further states that the USSC denied certiorari on 6/26/06... Certiorari has been granted, not denied. (CASEFILES) [03-35669, 03-35984] (HH) [Entered: 07/21/2006 12:09 PM]
- 07/21/2006 60 Filed order (Deputy Clerk: hh) The mandate issued on 7/17/06 is hereby RECALLED as issued in error. [03-35669, 03-35984] (HH) [Entered: 07/21/2006 12:02 PM]
- 10/05/2006 64 ONE VOLUME RECORD OF PROCEEDINGS HAD IN THE NINTH CIRCUIT TRANSMITTED TO THE U.S. SUPREME COURT IN S.C. CASE #05-381. THE LOWER COURT WILL TRANSMIT THE DISTRICT COURT DIRECTLY TO THE SUPREME COURT. [03-35669, 03-35984] (SS) [Entered: 10/05/2006 04:18 PM]
- 03/01/2007 65 Received Appellant Weyerhaeuser Company, letter dated 3/1/07 re: The Supreme Court's opinion vacates the judgment prevsly entered by this court. Requests supplemental briefing and argument. (to PANEL) [03-35669, 03-35984] (HH) [Entered: 03/01/2007 04:23 PM]
- 03/05/2007 67 Received copy of Supreme Court opinion dated 2/20/07 . (PANEL) [03-35669, 03-35984] (GR) [Entered: 03/05/2007 04:17 PM]
- 03/07/2007 69 Received Michael E. Haglund for Appellee Ross-Simmons Hardwd letter dated 3/6/07 re: response to 3/1/07 letter. PANEL [03-35669] (GR) [Entered: 03/07/2007 04:01 PM]

- 03/12/2007 71 Received Appellant Weyerhaeuser Company, letter dated 3/12/07 re: urges the court to set a supplemental briefing schedule. (to PANEL) [03-35669, 03-35984] (HH) [Entered: 03/12/2007 02:15 PM]
- 03/19/2007 72 Received Appellee Ross-Simmons Hardwd, letter dated 3/16/07 re: urges the 9th Cir. to remand this case to the district court as soon as possible. (faxed to PANEL) [03-35669] (HH) [Entered: 03/20/2007 09:38 AM]
- 03/29/2007 73 Filed Supreme Court judgment filed and entered in USSC No. 05-381 on 2/20/07 remanding case to 9th Circuit. (to PANEL) [03-35669, 03-35984] (HH) [Entered: 03/30/2007 11:07 AM]
- 04/11/2007 76 Order filed FOR PUBLICATION: The judgment of the district court is VACATED and the case is REMANDED to the district court for further proceedings consistent with the decision of the U.S. Supreme Court in Weyerhaeuser Co. v. Ross-Simmons, 127 s.Ct. 1069 (2007). In fulfilling this mandate, the district court may hold such hearings and enter such orders as it deems appropriate. IT IS SO ORDERED. (Terminated on the Merits after Oral Hearing; Remanded; Written, Signed, Published. Thomas G. NELSON, Johnnie B. RAWLINSON, William W. Schwarzer) [03-35669, 03-35984] (HH) [Entered: 04/11/2007 02:16 PM]
- 04/25/2007 78 Filed Appellant Weyerhaeuser Company's motion to recall the mandate for the limited purpose of amending the court's 4/11/07 order to specify which party shall bear appellate costs; served on 4/25/07 (mandate has not issued) [6157196] (faxed to PANEL) [03-35669, 03-35984] (HH) [Entered: 04/25/2007 04:31 PM]
- 05/03/2007 80 Filed order (Thomas G. NELSON, Johnnie B. RAWLINSON, William W. Schwarzer,): Apt's motion to recall the mandate is DENIED, as unnecessary. [78] Apt is hereby awarded its costs on appeal. The court's order of 8/12/05, is VACATED. All motions for attys fees are DENIED, subject to renewal in the district court, at an appropriate time. [50] [03-35669, 03-35984] (HH) [Entered: 05/03/2007 02:21 PM]
- 05/04/2007 81 Filed Appellee Ross-Simmons Hardwood's opposition to motion to recall mandate to specify which party shall bear costs [78]; served on 5/1/07 (faxed to PANEL) [03-35669, 03-35984] (HH) [Entered: 05/08/2007 11:47 AM]
- 05/10/2007 83 Filed Appellant Weyerhaeuser Company in 03-35984 bill of costs (\$119.50), served on 5/10/07 [03-35669, 03-35984] (HH) [Entered: 05/11/2007 05:11 PM]
- 05/10/2007 84 Filed Appellant Weyerhaeuser Company in 03-35669 bill of costs (\$812.30), served on 5/10/07 [03-35669, 03-35984] (HH) [Entered: 05/11/2007 05:12 PM]
- 06/04/2007 85 MANDATE ISSUED. Costs taxed. [03-35669, 03-35984] (HH) [Entered: 06/04/2007 04:10 PM]
- 01/18/2008 86 NO ORIGINAL RECORD (JR) [Entered: 01/18/2008 10:35 AM]

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