

LAW OFFICES
SHORT CRESSMAN & BURGESS PLLC

999 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98104-4088

FAX: (206) 340-8856

(206) 682-3333

www.scblaw.com

JOHN P. AHLERS
PATRICIA BAUGHER
DAVID E. BRESKIN
KERRY S. BUCKLIN
BRUCE A. COHEN
PAUL R. CRESSMAN, JR.
MICHAEL J. CRISERA
PAUL J. DAYTON
RICHARD A. DU BEY
BRADLEY A. EVENS

CHRIS FARIAS
MICHAEL R. GARNER
TATYANA A. GIDIRIMSKI
DAVID A. HERRMAN
JOHN J. HOULIHAN, JR.
DANIEL F. JOHNSON
CLAUDIA KILBREATH
JANET S. KIM
DAVID R. KOOPMANS
ANDREW W. MARON

CONNIE SUE MANOS MARTIN
SCOTT M. MISSALL
KENDALL H. MOORE
KENNETH L. MYER
CHRISTINA GERRISH NELSON
JAMES A. OLIVER
MICHAEL R. PARKER, M.D., J.D.
BETH M. PRIEVE
RYAN D. REIN
ALEX J. ROSE

JENNIFER L. SANSCRAINTE
ANNE-MARIE E. SARGENT
SCOTT R. SLEIGHT
SCOTT A. SMITH
ROBERT A. STEWART ★
JOHN D. SULLIVAN
SUSAN THORBROGGER
PAUL R. WILLETT
LISA A. WOLFARD
★ OF COUNSEL

April 1, 2004

Berg/Lumpkin Plaintiffs Newsletter

Published periodically by the law firms of Short Cressman & Burgess PLLC, Engstrom Lipscomb & Lack, Girardi and Keese, Robinson Calcagnie & Robinson, and the Johnson Law Group.

This Update is a general summary of recent events and is not intended to serve as legal advice or an attorney client communication

Judge Nielsen Strikes Government Contractor Defense

Responding to a motion filed by the plaintiffs, Judge Wm. Fremming Nielsen issued an order on March 30th to strike the government contractor defense. The defendants, primarily DuPont and General Electric, had claimed that they were immune because they were operating Hanford under contract with the federal government.

In considering the defendants' argument that they were immune from liability (government contractor defense), as well as indemnified (due to their standing as contractors under the Price-Anderson Act), Judge Nielsen wrote that such an argument "defies common sense."

The order described the reasons that led the Court "to conclude that the Defendants may not assert the government contractor defense against Plaintiffs' [Price-Anderson Act] claims,

i.e., why the defense is clearly insufficient as a matter of law and should be stricken."

This ruling is very good news for our case.

Dates Set for Next Two Status Conferences

The next status conference before Judge Nielsen will take place on April 15th, starting at 8:00 a.m. It will be held in Spokane at the federal building, 920 W. Riverside Ave., on the ninth floor. The date has already been set for the following status conference, which will take place on June 3, 2004, at the same time and location.

Mediation Process Gets Underway

The first mediation session was held on March 16, 2004. The purpose of the mediation process is to explore whether it is possible for the two sides to negotiate a settlement prior to the trial, slated for next year. The mediator, Gary

Bloom, met separately with both sides for several hours. It was intended as a "get acquainted" session.

The second mediation session is scheduled for June 2nd.

Defendants File Summary Judgment Motion

In February, the defendants filed a motion for summary judgment based on the statute of limitations. The defendants are asking the Court to dismiss any plaintiff whose claim is based on a disease that was diagnosed prior to February 1986, when the first batch of declassified documents concerning Hanford's operational history was released. Under Washington law, a person has three years from the time they were aware they had a claim against an entity before filing a lawsuit.

The plaintiffs' response brief to this motion must be filed by April 30, 2004.

Expert Reports Submitted Soon

Attorneys for the plaintiffs have recruited a number of scientific and medical experts to prepare reports on various aspects of the case. The experts have been finalizing their reports which are due to be served on the defendants by Monday, April 5th. The reports range from dose reconstruction to medical causation to contractor negligence. The reports for the experts on damages are not due until April 30th.

The next step is for the experts to be deposed by the defendants. The depositions must be completed by the end of June.

Help Us if You Move

Please be sure to notify us if your name, address or telephone number changes. We cannot effectively represent you if we cannot contact you.

Call Us for Information

If you have any questions about the status of the case or your files, please contact us:

- *Short Cressman & Burgess PLLC: David Breskin or Jim Thomas*
Toll Free: 1-888-333-2374 E-Mail: jthomas@scblaw.com
- *Engstrom, Lipscomb & Lack: Brian Depew or Betsy Crooke*
E-Mail: bdepew@elllaw.com or bcrooke@elllaw.com
- *Johnson Law Group: Todd or Scott Johnson – 1-888-254-1997*

Please visit our web page, located at <http://www.downwinders.com>.

If you do not have access to the Internet, check with your local library.
Many libraries offer free Internet access to the public.