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Berg/Lumpkin Plaintiffs Newsletter

Published periodically by the law firms of Short Cressman & Burgess PLLC, Engstrom Lipscomb & Lake, Girardi and Keese, Robinson Calcagrie & 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

Depositions Proceed for 30 Potential Bellwether Plaintiffs

At the time of writing this newsletter, about half of the depositions of the 30 potential bellwethers have been taken. It is expected the others will be deposed in the next few weeks. Once the depositions have been completed, then each side will select six from the pool of thirty. The resulting 12 bellwether plaintiffs will be the focus of the trial due to start in March 2005.

Plaintiffs Granted Permission to File Motion to Strike

In an order signed December 8, Judge Wm. Fremming Nielsen granted the plaintiffs' request to file a motion to strike the government contractor defense. The motion to strike is expected to be filed before the end of the year. If approved by the Court, the defendants will be barred from raising it as a defense.

Since last summer, the defendants have declared their intention to file a summary judgment motion in February

2004. The basis of the defendants' position is called the government contractor defense. The defense provides legal protection or immunity for those companies the government contracts with to do work. The immunity is based on the government's sovereign immunity from suit for decisions made by officials that are discretionary (or related to policy), rather than something required by law.

However, there are several important reasons why the Hanford situation does not meet the conditions to qualify the defendants for protection under the government contractor defense. Because the plaintiffs' strike motion has not yet been filed with the Court, we are unable to describe those reasons that support the striking of the defense.

More Hanford Documents Obtained by Plaintiffs

Another necessary activity to be done before the bellwether trial is the completion of document discovery. The Department of Energy still has classified

documents concerning historic operations of Hanford's plutonium factories. Your attorneys and their staff are working to complete their search for all relevant documents in federal government repositories as well as the corporate archives of DuPont and General Electric, the two main defendants.

According to the current schedule, all document discovery efforts must be complete by January 30, 2004.

Fourth Status Conference – January 22 in Spokane

Judge Wm. Fremming Nielsen has set the fourth status conference for January 22, 2004, 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 conference is expected to last 2-3 hours.

Government Stalls on Release of Hanford Thyroid Disease Study Data

As reported to you before, we have been trying to gain access to some of the scientific information gathered by the Centers for Disease Control (CDC) during the Hanford Thyroid Disease Study. CDC refused our request under the Freedom of Information Act, and so we filed an administrative appeal. Since the government has given no indication that it wants to rule on the appeal, the plaintiffs have served two subpoenas to obtain the information. One was sent to CDC and the other to its contractor on the HTDS study, the Fred Hutchinson Cancer Research Center.

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 James Thomas*
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