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December 8, 2005

## **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.*

### **Jury Delivers Defense Verdict in Rhodes' Retrial**

By a vote of 11-1, a 12-member jury returned a verdict for the Hanford contractors (DuPont and General Electric) the day before Thanksgiving. The result occurred after a two-week trial and a little more than a day of jury deliberations.

The bellwether plaintiff, Shannon Rhodes, was "devastated" by the defense verdict. Ms. Rhodes suffers from metastatic thyroid cancer that has invaded her lung area. Her doctors have told her the cancer is inoperable and that she will live for only 1-2 years.

All post-trial motions will be filed today, December 8, 2005. After the briefing is complete, it is expected that Judge Nielsen will decide the motions in January 2006.

Depending on how Judge Nielsen rules on the post-trial motions, the plaintiffs may appeal the verdict

concerning Ms. Rhodes to the Ninth Circuit. If an appeal is filed, it will most likely be consolidated with the appeals filed as a result of the first bellwether trial in May 2005. It is anticipated the Ninth Circuit will set a briefing schedule for the Hanford downwinder appeals later in December or early next year.

### **Other Plaintiffs' Claims on Hold – Pending Appeals**

In the entire Hanford downwinder litigation, there are over 2,000 individual plaintiffs -- about 250 of these belong to the *Berg/Lumpkin* group. As with the appeals filed in 1998 and 1999, the current round of appeals will effectively place all other plaintiffs' claims on hold.

It is expected that the appeals process will take 2-3 years to complete. Thus, a ruling from the Ninth Circuit will probably not occur until late 2007 or sometime during 2008.

## Settlement Efforts Continue

We will continue to seek a substantial and just settlement with the defendants. While we would have preferred a verdict for Ms. Rhodes last month, we are still confident in a just resolution to this litigation.

We have won two compensation awards for two of the bellwether plaintiffs (although these awards are pending during the appeals process). We have defeated the defendants' strongest evidence: the seriously flawed Hanford Thyroid Disease Study.

We continue to believe that our cause is just. We remain confident that the Hanford defendants and their sponsor, the U.S. Department of Energy, will eventually recognize that providing compensation to Hanford's downwinders is the right thing to do.

## Change in Contact Person

For the past 8 years, Jim Thomas has served as the main contact person for the *Berg/Lumpkin* clients. Effective January 1, 2006, the new contact at Short Cressman & Burgess will be Margaret Moynan who has been assisting Jim over the last 15 months.

After nearly 22 years of Hanford involvement, Jim has decided to move on and tackle other challenges. But do not worry, Jim will remain available to our continuing litigation efforts on an as-needed basis.

## Please Remember – 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 Margaret Moynan*  
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- *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.