

June 28, 2011

## **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.*

Issues relating to the trial track and the two mediation tracks established by the Court in January 2010 were discussed at the June 15, 2011, status conference. To review, these tracks are: (1) the trial of 22 hypothyroid claims from the *Evenson* group; (2) mediation Track A, comprised of the 32 thyroid cancer claims in our *Berg/Lumpkin* group and; (3) mediation Track B, comprised of 40 randomly selected thyroid cancer claims from the other plaintiff groups.

The *Evenson* hypothyroid claims are being prepared for trial. Depositions are being taken and the plaintiffs' expert reports are due at the end of this month. This trial is currently set to begin on April 30, 2012.

Regarding the *Berg/Lumpkin* mediation track, the government has made some additional offers, but declined to resume mediation or increase its offers to plaintiffs with thyroid cancer. Consequently, we advised the Court that mediation of the thyroid cancer claims has failed, and asked that these claims be set for trial. We are advised that mediation of Track B has also failed. In response, Judge Nielsen ordered that the Court will randomly select half of the thyroid cancer claims from mediation Tracks A and B, and those claims will be proceed to trial. In view of this, the Court further determined that 50 plaintiffs suffering from thyroid nodules will be randomly selected from among all the plaintiff groups for another trial track.

The Court also discussed the possible random selection of 30 non-thyroid claims for another trial track. Judge Nielsen asked that the parties be prepared to discuss the likelihood of this trial track and whether a proposal can be made to determine this track's members at the next status conference, on July 27, 2011, at 8:30 a.m. PDT, at the U.S. District Court in Spokane.

Although no trial dates have been set for any of these new trials, none will likely take place before late 2012. The purpose of holding these trials is to help the parties value and settle the claims of all plaintiffs.

### **Please Remember to Help – Tell Us if You Move**

It is very important for you 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:*

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