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## **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 Sets March 2005 as Trial Date**

Judge William Fremming Nielsen set March 2005 as the trial date for the *In re Hanford Nuclear Reservation Litigation*. This is the consolidated case that includes all *Berg* and *Lumpkin* plaintiffs. This is the first time that a trial date has been set in the radiation exposure case which was first filed in August 1990.

Judge Nielsen also worked out other parts of the schedule during the May case management conference with attorneys for the plaintiffs and defendants.

During the summer, the plaintiffs had to prepare (1) an amended complaint for the consolidated cases; (2) a listing of all plaintiffs by disease category; and (3) identify 15 plaintiffs who would be willing to serve as bellwether plaintiffs.

### **Bellwether Plaintiff Pool Selected**

On August 29<sup>th</sup>, the plaintiffs selected 15 people who are willing to serve as bellwether plaintiffs for the March 2005

trial. Bellwethers are representative of all the plaintiffs and using them for trial is more practical than having a massive trial of all 3,000 individual people involved in the *Hanford* cases.

In addition to the 15 selected by the plaintiffs, the defendants have also selected 15. Together they form a pool of 30. These 30 bellwethers will undergo depositions during this fall. The defendants are likely to scrutinize their medical records as well as depose some of the doctors for the bellwether plaintiffs.

From this pool of 30, 12 will be selected in January 2004 for the trial – 6 chosen by the plaintiffs and 6 by the defendants.

### **Other Activities Before Trial**

Before January 2004, the parties also need to complete their search for historical documents and other evidence that will be used at trial. Because most of Hanford's radiation releases occurred in the 1940s and 1950s, there will probably be no witnesses available to

testify about the actual operations. Thus the court will be presented with historical documents concerning the operations.

During 2004, the scientific experts for both sides will prepare individual reports on each of the 12 bellwether plaintiffs. The experts will be deposed and their reports analyzed.

## **Second Status Conference – September 19 in Spokane**

Judge Nielsen has set the second status conference for September 19, starting at 8:30 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 most of the day.

## **Update on Request for Hanford Thyroid Disease Study Data**

In previous issues of the newsletter, we have told you about our efforts to

obtain 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 for the last four months has failed to take any action on the administrative appeal we filed. Usually, administrative appeals are supposed to be resolved within one month. After spending \$19 million in taxpayer funds, CDC refuses to publicly release the scientific data to enable independent analysis.

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

If your name, address or telephone number changes, please tell us. This will save us much time and effort that can be better spent trying to win your claims against Hanford.

### *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*  
Toll Free: 1-888-333-2374      E-Mail: [jthomas@scblaw.com](mailto:jthomas@scblaw.com)
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- *Johnson Law Group: Todd or Scott Johnson – 1-888-254-1997*

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