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September 7, 2005

Berg/Lumpkin Plaintiffs Newsletter

*Published periodically by the law firms of Short Cressman & Burgess PLLC, Engstrom Lipscomb & Lake,
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.*

Bellwether Plaintiff Given New Trial

Of the six bellwether plaintiffs involved in the first trial earlier this year, the jury was unable to reach a verdict for one plaintiff, Shannon Rhodes. Judge Nielsen responded by declaring a mistrial. Recently the judge set November 7, 2005, as the start of her retrial.

Except for a new jury and updated medical testimony, much of the November trial will be similar to the first trial this past spring. The November trial is expected to take about two weeks.

The court will follow the same daily schedule as with the previous trial:

- Monday through Thursday, from 8:30 a.m. to noon and 1:30 until 4:30 p.m. There will be one fifteen minute recess in the morning and one in the afternoon.
- Friday - 8:00 a.m. until 2:00 p.m., with two twenty minute recesses.

The trial will take place in Judge Nielsen's courtroom on the ninth floor of the Spokane federal building, 920 W. Riverside Avenue. The trial will be open to the public with more than 50 seats available.

Judge Nielsen Rejects Defendants' Renewed Motion to Overturn Jury Awards

In a ruling dated August 15, Judge Nielsen denied the renewed motion of the defendants to overturn the two judgments in favor of bellwethers Steve Stanton and Gloria Wise. In reaching his decision, the judge concluded that there was sufficient evidence presented for a reasonable jury to find in favor of the plaintiffs.

In their motion, the defendants also tried to have Judge Nielsen dismiss the claim of Shannon Rhodes, the plaintiff for which the jury was unable to reach any verdict in May.

Jury Verdicts Appealed to Ninth Circuit

Both the plaintiffs and defendants have filed appeals with the Ninth Circuit involving the bellwether plaintiffs, with the exception of Shannon Rhodes.

In June, appeals were filed on behalf of six bellwether plaintiffs. Three of these were from the first trial and the jury decided their cases in favor of the defendants. For the other three (out of the original 12 bellwethers), their cases had been dismissed prior to the trial.

In August, the defendants filed an appeal which seeks to overturn the jury verdicts in favor of Steve Stanton and Gloria Wise.

The various appeals will be briefed in the coming months and are scheduled to be completed by early in 2006. After that, it is up to the Ninth Circuit to

schedule oral argument on the appeals. The typical appeals process takes about two years before a decision is announced.

Mediator Holds Session -- Defendants Absent

The court-appointed mediator, Gary Bloom, scheduled the first session in over a year for early September. While attorneys representing the plaintiffs plan to participate, the defendants have already told Mr. Bloom they do not plan to attend the session.

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:

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