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BP Litigation: From the Bayou to . . . Boise?

Everyone who's anyone in the world of personal injury and product liability lawyering is making their way to Boise next week for the Multidistrict Litigation Panel's hearing on the colossal litigation against BP.

Why Boise, you may be asking? The mountain town more than 2,000 miles away from the oily Gulf shores just happened to be next up on the roving panel's calendar of randomly selected venues for its regular hearings. What the town lacks in accommodations ("It doesn't even have a five-star hotel," one Gulf attorney complained) it makes up for in seafood; its oysters come from oil-free Washington State.

We outline in a story today how the attorneys descending on Boise will be arguing for venues such as New Orleans, wanted by the plaintiffs, and Houston, wanted by defendants. Others have offered up Lafayette, La., as a mid-way point between the two cities, and some have suggested importing a judge such as New York federal judge Shira Scheindlin or Texas judge W. Royal Furgeson Jr., a member of the MDL panel.

Among other possible candidates is Houston's Judge Lynn N. Hughes, who has heard arguments on Transocean's request to limit its liability. "I am perfectly willing to do whatever is assigned to me," Judge Hughes said.

There is also Judge Carl J. Barbier in New Orleans, who has about five-dozen oil suits before him. Judge Barbier sold off Transocean and Halliburton bonds about a month after the suits came before him. On Thursday, the Fifth Circuit Court of Appeals denied a request from BP and Cameron International Corp., the maker of a blowout preventer that failed on the well, to seek to have him recused, but left open channels for that possibility. Judge Barbier declined to comment.

Richard Arsenault, a Louisiana attorney who has filed economic claims, said the panel will need to pick a judge with a wide-open calendar. But with a case that if consolidated could include claims as diverse as RICO suits and wrongful death cases, the panel will likely opt for a veteran of mass torts.

"I suspect that the experience of the jurist will be the critical consideration and the other factors will be a distant second," Arsenault said.

