

Scores of Lawyers Apply for Lead Counsel in BP Litigation

Amanda Bronstad
September 30, 2010

More than 100 lawyers who are suing BP PLC over the Deepwater Horizon oil spill have applied for coveted places on the committee that will lead the multidistrict litigation, citing either the extensive work they've already done or the unique role they would serve as the representative of a specific group of alleged victims.

The plaintiffs' steering committee will conduct discovery, decide which motions to file and — perhaps most important — pocket the largest attorney fees.

The litigation involves about 300 lawsuits so far. The case became even more significant in light of criticism that the BP-financed \$20 billion Gulf Coast Claims Facility was rejecting too many claims and failing to pay others promptly.

The MDL, pending before U.S. District Judge Carl Barbier in New Orleans, stands to become one of the largest mass torts in history. To help manage discovery, Barbier issued a written notice on Friday that he intended to hire Francis McGovern, a professor at Duke Law School and expert on multidistrict litigation, as special master.

The deadline to submit applications for the plaintiffs' steering committee was Monday. The next hearing in the case is scheduled for Oct. 15.

Many plaintiffs' attorneys have already hired experts and spent millions of dollars investigating what caused the oil spill, as they pointed out in their applications. Several cited work on the nation's largest environmental cases, including the litigation over the Exxon Valdez oil spill, MTBE contamination of groundwater and Hurricane Katrina.

A large number cited years of experience in maritime law, particularly in litigation ensuing from prior incidents in the Gulf Coast or cases brought specifically against BP.

Some have sued BP over its 2005 refinery explosion in Texas City, Texas. Those lawyers include Brent Coon of Brent Coon and Associates in Beaumont, Texas; Matthew Shaffer of Houston's Schechter, McElwee, Shaffer & Harris; James Singleton of The Singleton Law Firm in Shreveport, La.; Mark Lanier of The Lanier Law Firm in Houston, and John Eddie Williams Jr. of Houston's Williams Kherkher Hart Boundas.

"We have the largest archive of BP testimony and documents in the country and are considered the leading authority on litigation involving BP," Coon wrote.

Almost all the lawyers have played some lead role in an MDL before. A large share of the applicants were from Louisiana or other Gulf Coast states including Texas and Florida.

Some sought a role as representative for a particular group.

"Many of the injured are African Americans and other minorities," said Derriel McCorvey of The Law Office of Derriel C. McCorvey in Lafayette, La., and require "a racially diverse steering committee to ensure they have

a seat at the table and a voice in this litigation."

Similarly, Tammy Tran, founder of the Tammy Tran Law Firm in Houston, and Luan Tran, co-founder of Los Angeles-based Lee Tran & Liang, filed a joint application to represent Vietnamese-American fishermen who speak limited English. They noted that as many as 50% of Gulf Coast fishermen are of Vietnamese descent.

Ervin Gonzalez and Lewis "Mike" Eidson, both partners at Coral Cables, Fla.-based Colson Hicks Eidson, said in separate applications that they want to represent Floridians afflicted by the spill. "The litigation of this case will require the concerted efforts of leading attorneys throughout all of the affected states and the country," Gonzalez wrote.

Another lawyer, Stuart Grossman of Miami's Grossman Roth, sought a position as co-lead counsel for the state of Florida with Bilzin Sumberg Baena Price & Axelrod in Miami. Robert Cunningham of Cunningham Bounds in Mobile, Ala., sought a position as co-lead counsel for the state of Alabama.

Mike Papantonio and Brian Barr said that their firm — Levin, Papantonio, Thomas, Mitchell, Echsner, Rafferty and Proctor in Pensacola, Fla. — was the preferred counsel for the Florida Restaurant and Lodging Association.

Christopher Beary of Orrill, Cordell & Beary in New Orleans argued that his 368,000 Louisiana-licensed recreational saltwater fishermen clients deserved a special representative.

And Enrique Serna of Serna & Associates in San Antonio, Texas, representing three states in Mexico, sought a role for foreign claimants. "Damages from the spill have affected and will continue to damage all of the foreign governmental entities bordering the Gulf of Mexico," he wrote.

The lawyers who have already hired experts include Daniel Becnel of the Becnel Law Firm in Reserve, La. That firm and **Richard Arsenault of Neblett, Beard & Arsenault in Alexandria, La.**, and Camilo Salas of Salas L.C. in New Orleans are among a handful of firms that put up \$5,000 to pay for those experts, according to their applications.

"A case of this type will require a minimum of a million dollars to fund, per firm," Becnel wrote.

Becnel argued on behalf of his firm, saying that he personally was precluded from serving on the committee. In an earlier interview with *The National Law Journal*, Becnel said he agreed to forfeit the role in exchange for serving as liaison counsel in the cases that were pending before Barbier before the MDL was formed. Four other lawyers from his firm — Matthew Moreland, Salvadore Christina Jr., Kathryn Becnel and Toni Becnel — submitted separate applications.

Many lawyers have formed alliances or have dedicated a large number of their firms' lawyers to the litigation. They included Stephen Herman of New Orleans-based Herman, Herman, Katz & Cotlar and James Roy of Domengeaux, Wright, Roy & Edwards in Lafayette, La., the interim co-liaison counsel for the committee.

Many of the lawyers who applied represent workers injured in the explosion that caused the leak: Shaffer; Anthony Buzbee of The Buzbee Law Firm in Edinburg, Texas; Ronnie Penton of The Penton Law Firm in Bogalusa, La.; Scott Bickford of Martzell & Bickford in New Orleans; Kurt Arnold of Arnold & Itkin in Houston; John H. Smith of the McKernan Law Firm in Baton Rouge, La.; and R. Todd Elias of Gordon, Elias & Seely in Houston.

Others have close connections to Kenneth Feinberg, administrator of the Gulf Coast Claims Facility. They include Perry Weitz of New York's Weitz & Luxenberg; Joseph Rice of Motley Rice in Mount Pleasant, S.C.; Frederick Kuykendall III of Kuykendall and Associates in Fairhope, Ala.; and Walter Leger Jr. of Leger & Shaw in New Orleans. Weitz's colleague Robin Greenwald and Rice's partner Ronald L. Motley filed separate

applications.

Others represent government agencies. Leger is special counsel to Lafourche Parish, La., District Attorney Camille "Cam" Morvant II, and co-liaison counsel to the Louisiana attorney general's office.

Additionally:

- Rhon Jones of Beasley, Allen, Crow, Methvin, Portis & Miles in Montgomery, Ala., represents the State of Alabama and several cities in Alabama.
- Scott Summy's firm, Dallas-based Baron & Budd, represents the State of Louisiana.
- Calvin Fayard Jr. of Fayard & Honeycutt in Denham Springs, La., is counsel for the district attorneys in several Louisiana parishes.
- Christian Searcy of Searcy Denney Scarola Barnhart & Shipley in West Palm Beach, Fla., has been appointed special counsel to Florida Gov. Charlie Crist.
- In a joint filing, Terrebonne Parish District Attorney Joseph Waitz Jr., suing on behalf of the state of Louisiana for damages to wildlife, paired with Francis "Frank" Spagnoletti of Houston's Spagnoletti & Co.

Finally, some lawyers represent environmental groups. Robert Wiygul and Joel Waltzer of Waltzer & Wiygul in Harvey, La., represent the Gulf Restoration Network, the Sierra Club, the Center for Biological Diversity and the Natural Resources Defense Council. Charles Tebbutt of the Law Offices of Charlie Tebbutt in Eugene, Ore., represents the Center for Biological Diversity.

Additional applications were filed by Christopher Seeger of Seeger Weiss in New York; Elizabeth Cabraser of Lief Cabraser Heimann & Bernstein in San Francisco; Thomas Girardi of Girardi Keese in Los Angeles; David Boies of Boies, Schiller & Flexner in New York; and Dawn Barrios of Barrios, Kingsdorf & Casteix in New Orleans.

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