



Lawyers compete for big payoff, control in BP case

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By CURT ANDERSON (AP)

MIAMI — More than 100 lawyers are battling for the biggest chunks of what is likely to be a multibillion-dollar settlement for Gulf of Mexico oil spill victims, jockeying for spots on the elite team that will control the plaintiffs' cases.

A judge will pick 12 to 15 lawyers to take the lead in lawsuits against BP PLC and other companies filed by thousands of fishermen, restaurateurs, hotel operators, property owners and many others over the worst offshore oil spill in U.S. history.

Competition is fierce: The candidates include a former Cabinet secretary and the lawyer who represented Al Gore in the 2000 presidential recount case. The team could get up to 15 percent of a multibillion-dollar settlement from more than 300 lawsuits that have been consolidated in New Orleans federal court. And that's on top of the typical 30 percent fee that lawyers charge their individual clients.

"This is a very lucrative position," said Brian Fitzpatrick, a Vanderbilt University law professor who has studied how attorney fees work. "You not only control the case but you get a big percentage off the top. This will attract all the big fish."

Applications from 112 attorneys have been filed with U.S. District Judge Carl Barbier, who will announce his choices in the coming weeks. Top trial lawyers from around the nation are represented, many of them veterans of similar high-profile cases such as Toyota's sudden acceleration problems and the troubled painkiller Vioxx.

Modesty is not the calling card of these attorneys, some of whom jet around on private aircraft. A typical application comes from South Carolina attorney Ronald L. Motley, whose 70-lawyer Motley Rice firm is one of the nation's largest representing plaintiffs literally from A to Z — from asbestos victims to people claiming they were poisoned by zinc in denture cream.

"Throughout his career and to this day, Motley has developed and tried complex toxic tort cases against powerful adverse interests," Motley's application says, adding that he has "extensive courtroom and trial experience as a tireless advocate for plaintiffs."

Mike Espy, a former Mississippi congressman who was agriculture secretary in the Clinton administration, is seeking one of the positions. So are five attorneys who sued BP over the 2005 Texas City refinery explosion, including Houston's Mark Lanier. Two Vietnamese-American lawyers want to represent fishermen of Vietnamese descent.

Derriel McCorvey, who is black, wants to represent African-American and other minority clients. He also noted that he was an all-Southeastern Conference defensive back at Louisiana State University.

David Boies points to his 40 years of legal work including the recount case for Gore, numerous major class action lawsuits and representation of the Justice Department in the antitrust case against Microsoft Corp.

A team is needed to oversee the lawsuits because it would be impossible to have hundreds of lawyers actively involved in cases that have been consolidated in the name of efficiency.

Once the panel is chosen, the attorneys will make nearly every strategic decision on behalf of the people across the Gulf who are suing BP. The lawyers left out will have almost no role.

In addition, the rank-and-file lawyers are often required by judges to pay an assessment to members of the leadership committee for "common benefit" costs — in other words, for the extra work they did to benefit all the plaintiffs and their attorneys.

"You are the master, the captain who runs the ship," said New York attorney Hunter Shkolnick, who is not involved in the BP lawsuits but has worked on numerous other major consolidated cases. "You are carrying the ball for everyone, not just your own clients. You are entitled to payment for that. This becomes your life."

The winning law firms will need the financial wherewithal, likely in the millions of dollars, to hire experts, investigators, forensic and computer whizzes, and meet myriad other expenses long before any damages or settlement money comes in.

"The lawyer who represents one or two fishermen, they just can't do it," Shkolnick said.

Judges in several recent cases, including the Vioxx case, have imposed caps on attorney fees partly to guard against a major windfall for lawyers on the leadership committees, legal experts said. Some attorney fees have reached 55 percent in past cases.

"The judges are saying that is just too much," said Fitzpatrick, the Vanderbilt professor.

The lawyer committees will do battle against large, well-financed firms with long-standing relationships to BP, Transocean, Halliburton and the other companies connected to the spill, which resulted from an April 20 explosion that killed 11 workers. Louisiana attorney Richard

Arsenault, who is seeking appointment to the BP panel, compared the plaintiff attorneys to David in his biblical showdown with Goliath.

"These lawyers, many of them who compete against each other and are used to being their own bosses, are put together to form this makeshift team that will perform against Olympic athletes," Arsenault said. "It's an interesting dynamic."

Not every attorney seeking a leadership slot in the BP case stressed his accomplishments and appearance on annual "top lawyer" lists. Robert Cunningham of Mobile, Ala., noted in his application that he had lost cases as well as won them, adding, "I believe that if you are not occasionally losing a case, you are not trying enough of them."

Cunningham went on: "I am attaching as an exhibit a one-page biography drafted by our 'Marketing Director' for our website. Please take it with a big grain of salt. Nowadays, we are all the 'Best,' the 'Top' and 'Super.'"

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