

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE:

**DEEPWATER HORIZON
INCIDENT LITIGATION**

MDL Docket No. _____

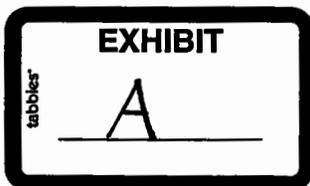
**BP EXPLORATION & PRODUCTION INC.'S MOTION
TO TRANSFER FOR COORDINATED OR CONSOLIDATED
PRETRIAL PROCEEDINGS UNDER 28 U.S.C. § 1407**

BP Exploration & Production Inc. ("BPXP"), a defendant in various of the cases listed on the accompanying Schedule of Actions,¹ files this motion for consolidation and transfer of pretrial proceedings under 28 U.S.C. § 1407. In support of its Motion, BPXP states as follows:

1. On April 20, 2010 there was an explosion and fire onboard the Deepwater Horizon offshore drilling rig owned and operated by Transocean Ltd. and/or its subsidiaries ("Transocean") while it was operating in the Gulf of Mexico. The rig subsequently sank on April 22.

2. At the time of the incident, BP America Production Company (an affiliate of BPXP) had hired Transocean Holdings LLC as an independent contractor to use Deepwater

¹ As shown in the accompanying Schedule of Actions, BPXP seeks consolidation and transfer of 70 cases arising from the explosion onboard the Deepwater Horizon and subsequent oil spill. Of the 70 Related Cases, six (6) were the subject of a prior filing by a group of plaintiffs on or about April 30, 2010 seeking an MDL styled as "*In Re: Gulf Of Mexico Oil Contamination*." BPXP is filing this pleading as a Motion pursuant to JPML Rule 7.2(g) and (h) because it adds 64 actions to the 6 identified by plaintiffs for transfer and consolidation. As discussed in the accompanying Memorandum, plaintiffs' Motion is too narrow and the cases identified therein should be made part of the larger MDL that BPXP seeks in this Motion.



Horizon to drill an exploration well on Mississippi Canyon Block 252 ("MC252"), approximately 130 miles southeast of New Orleans. BPXP has a 65% interest in MC252. Following the incident on the Deepwater Horizon rig, oil began spilling from the well. An extensive spill response operation was activated, involving more than 2500 people, a fleet of vessels, aircraft, dispersants and booms.

3. In the two weeks since the incident, at least 70 suits have been filed in federal court relating to the incident as set forth in the Schedule of Actions (collectively the "Related Cases"). Each of the Related Cases is based on the same facts: the explosion of Deepwater Horizon and subsequent oil spill. Each of the Related Cases has also been filed against some combination of the same defendants: Transocean and/or its affiliates, BPXP and/or its affiliates, Halliburton Energy Services, Inc., Cameron International Corporation, and others. All the Related Cases allege a cause of action for negligence, and many also seek recovery under common theories such as strict liability, nuisance, wantonness, and trespass. The vast majority of these cases, 59, are class actions seeking the certification of overlapping classes.

4. The Related Cases are spread across several different courts in Florida, Alabama, Louisiana, Mississippi, and Texas. The need to avoid inconsistent pre-trial rulings, eliminate duplicative discovery, and conserve the efforts and resources of the parties and the judiciary all weigh heavily in favor of transferring these cases to a single court for coordinated and consolidated pre-trial proceedings.

5. The Southern District of Texas, Houston Division, is the appropriate forum for all of the Related Cases because that is where (i) all of the defendants' headquarters, key witnesses and documents are located and (ii) a majority of the state court lawsuits have been filed.

In further support of its motion, BPXP submits the accompanying Memorandum and refers the Court to the points and authorities contained therein.

WHEREFORE, BPXP respectfully requests that the Court consolidate all of the cases on the Schedule of Actions pursuant to 28 U.S.C. § 1407. BPXP further requests transfer to the Southern District of Texas, Houston Division.

Dated: May 7, 2010

Respectfully submitted,

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BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE:)
)
)

DEEPWATER HORIZON)
INCIDENT LITIGATION)
_____)

MDL Docket No. _____

**MEMORANDUM OF LAW IN SUPPORT OF BP EXPLORATION & PRODUCTION
INC.'S MOTION TO TRANSFER FOR COORDINATED OR CONSOLIDATED
PRETRIAL PROCEEDINGS UNDER 28 U.S.C. § 1407**

BP Exploration & Production Inc. (“BPXP”) moves pursuant to 28 U.S.C. § 1407 to transfer for coordinated or consolidated pre-trial proceedings seventy (70) actions — including fifty-nine (59) putative class actions — pending in six district courts across the southeastern United States (collectively the “Related Cases”). Each of the Related Cases arises from the April 20, 2010 explosion and sinking of the Deepwater Horizon drilling rig in the Gulf of Mexico and subsequent oil spill, and all are premised on similar allegations and legal theories.

All of the factors considered by this Panel support the transfer of these actions to a single court. Centralization of this litigation will serve the interests of justice and efficiency by avoiding inconsistent pretrial rulings and duplicative discovery. The risk of inconsistent pre-trial rulings is particularly high here, where the defendants face dozens of overlapping putative class actions. All of the Related Cases are premised on the same alleged events and conditions and seek relief under similar legal theories. The Related Cases will involve the same discovery

regarding the Deepwater Horizon drilling rig and its blowout preventers, the cause of the explosion and ensuing oil spill, and the acts taken by each of the defendants. Discovery requests in these actions will be overlapping and duplicative, and will result in unnecessary burden on the defendants and the many courts before whom these cases are currently pending. Moreover, because plaintiffs' legal theories are similar, BPXP expects that dispositive motions and other pretrial filings likewise will be similar. As the Related Cases are all still in their initial stages, having been filed within the past two weeks, these inefficiencies can be avoided by immediate transfer and coordination or consolidation.

The Southern District of Texas, Houston Division, is the most appropriate forum for transfer and centralization because: (i) defendants BPXP, Transocean, Halliburton and Cameron maintain their principal places of business and their key documents and witnesses within that District, and (ii) several of the state lawsuits arising from the Deepwater Horizon incident are pending in Houston. Additionally, Judge Lynn N. Hughes, who was assigned the first Related Case to be filed in the Southern District of Texas, Houston Division, is experienced in managing multidistrict litigation. *See In Re Service Corporation International Securities Litig.*, MDL-1609 (Dist. J. Lynn N. Hughes). Transfer and consolidation of this litigation in the Southern District of Texas, Houston Division, would greatly promote the just and expeditious resolution of these actions.

BACKGROUND

Transocean Ltd. and/ or its affiliates ("Transocean") owned and operated the Deepwater Horizon offshore drilling rig, which drills exploration wells on the seabed. BP America Production Company (an affiliate of BPXP) hired Transocean Holdings LLC as an independent contractor to use Deepwater Horizon to drill an exploration well on Mississippi Canyon Block

252 (“MC252”), in the Gulf of Mexico approximately 130 miles southeast of New Orleans. BPXP has a 65% ownership interest in MC252.

Drilling a deep sea oil well is a complex task, and requires the use of specialized equipment and numerous contractors who perform specialized services. One of the contractors working on the MC252 exploration well was Halliburton Energy Services, Inc. (“HES”), also a defendant in many Related Cases, which provided specialized “cementing” services.¹ Defendant Cameron International Corp. and/ or its affiliates (“Cameron”) manufactured the blowout preventer (a large series of valves that can seal off the wellhead) used on the MC252 exploration well — a key piece of equipment for a deep sea well. Both HES and Cameron have been named as co-defendants with BPXP and Transocean in many of the Related Cases.

On April 20, 2010, an explosion and fire occurred onboard Deepwater Horizon. The rig subsequently sank on April 22. Following this incident, the well began to spill oil. An extensive spill response operation was activated, which has involved more than 2500 people, a fleet of vessels, aircraft, dispersants and booms. A few days after the Deepwater Horizon incident, plaintiffs began filing suits.

To date, more than 70 lawsuits arising from the Deepwater Horizon incident have been filed in state and federal courts before dozens of judges in at least six different districts in the five states that border the Gulf of Mexico. All of these Related Cases are in their initial stages. Indeed, each was filed within the last two weeks. BPXP’s initial responsive pleading has not yet come due in any of the cases, and no discovery or pretrial schedules have been set.

All of the Related Cases raise similar fact and legal issues, as demonstrated by the complaints provided with this Motion. *First*, the Related Cases are all based on similar factual

¹ “Cementing” refers to the process used to bond the well with the well casing. The well casing is a large steel pipe placed in a well as drilling progresses to prevent cave-ins and seepage.

allegations. Every complaint is premised upon the incident on the Deepwater Horizon offshore drilling rig and the ensuing oil spill. Indeed, many use the same language to introduce their allegations: “This is a class action ... to recover damages suffered by Plaintiffs and the Class Members as a result of the oil spill that resulted from the explosion and fire aboard, and subsequent sinking of, the oil rig Deepwater Horizon (hereinafter ‘Deepwater Horizon’ or ‘Oil Rig’) on April 20, 2010, at or about 10:00 p.m. on the outer Continental Shelf.” (Compl. ¶ 1 filed in *e.g.*, *Gulf Shores West Beach Investments, LLC, et al. v. Transocean Holdings, Inc.*, Case No. 10-cv-00213 (S.D. Ala.); *Friloux, et al. v. BP, plc, et al.*, Case No. 10-cv-01246 (E.D. La.); *Ocean Reef Realty, Inc. v. Transocean Holdings, Inc., et al.*, Case No. 10-cv-00132 (N.D. Fla.); *Salley v. Transocean Holdings, Inc. et al.*, Case No. 10-cv-00133 (N.D. Fla.); *Trahan, et al. v. BP, plc, et al.*, Case No. 10-cv-00198 (S.D. Ala.); *Carrone, et al. v. BP, plc, et al.*, Case No. 10-cv-01315 (E.D. La.); *Joe Patti Seafood Co., et al. v. Transocean, Ltd, et al.*, Case No. 10-cv-00137 (N.D. Fla.); *Wilkerson, et al. v. Transocean Holdings, Inc., et al.*, Case No. 10-cv-00201 (S.D. Ala.)).

Second, the complaints generally allege the same legal theories. Each alleges that the defendants were negligent. Most plaintiffs also seek recovery under the federal Oil Pollution Act, 33 U.S.C. § 2702, and common law theories such as strict liability, nuisance, trespass, and wantonness.

Third, the Related Cases have been brought against the same group of defendants. Almost all of the cases name Transocean and/ or its affiliates, BPXP and/ or its affiliates, HES, and Cameron.

Fourth, 59 of these cases are putative class actions, often with the same or overlapping class definitions. Most of the putative class complaints seek certification of statewide classes

consisting of “[a]ll [state] residents who live or work in or derive income from the [state] ‘Coastal Zone,’ as that term is defined in 43 U.S.C. §1331(e), and who have sustained any legally cognizable loss and/or damages as a result of the April 20, 2010 fire and explosion which occurred aboard the Deepwater Horizon drilling rig and the oil spill resulting therefrom.” (*E.g.*, Complaint ¶ 13 filed in *Robin Seafood Co., et al v. BP, plc, et al.*, Case No. 10-cv-01314 (E.D. La.)) Multiple plaintiffs in each state seek to represent a statewide class so defined. Additionally, other plaintiffs seek certification of classes ranging from “commercial fisherman ... who hold a Gulf reef fish permit and IFQ shares for gulf Red Snapper and Grouper/Tilefish” to “real estate owners, rental managers and rental agents.” (Complaint ¶ 5 filed in *Harris v. Transocean LTD., et al.*, 10-cv-00129 (N.D. Fla.); Complaint ¶ 31 filed in *Gulf Shores West Beach Investments, LLC, et al. v. Transocean Holdings, Inc.*, Case No. 10-cv-00213 (S.D. Ala.)). Although most of the putative class definitions are limited to potential class members in a single state, some plaintiffs have sought to represent multi-state classes. (*See, e.g.*, Complaint ¶ 18 filed in *Bill’s Oyster House, et al. v. BP, plc, et al.*, Case No. 10-cv-01308 (E.D. La.); Complaint ¶ 5 filed in *Harris v. Transocean LTD., et al.*, 10-cv-00129 (N.D. Fla.); Complaint ¶ 26 filed in *Billy’s Seafood, Inc. v. Transocean Holdings, Inc., et al.*, Case No. 10-cv-00215 (S.D. Ala.)).

ARGUMENT

I. TRANSFER IS APPROPRIATE UNDER 28 U.S.C. § 1407.

The purpose of 28 U.S.C. § 1407 is to ensure the just, efficient and consistent conduct and adjudication of actions pending in multiple districts by providing for the centralized management of pretrial proceedings under a single court’s supervision. 28 U.S.C. § 1407(a). In deciding whether to consolidate or coordinate proceedings, the Panel assesses whether centralization will (1) avoid the possibility of conflicting pretrial rulings; (2) eliminate or reduce duplicative discovery; and (3) conserve the efforts and resources of the parties, their counsel,

witnesses, and the judiciary. *In re Imagitas, Inc., Drivers' Privacy Prot. Act Litig.*, 486 F. Supp. 2d 1371, 1372 (J.P.M.L. 2007); *In re National Sec. Agency Telecomms. Records Litig.*, 474 F. Supp. 2d 1355, 1356 (J.P.M.L. 2007). Each of these considerations decisively favors MDL consolidation here.

A. Transfer Will Avoid The Possibility Of Conflicting Pretrial Rulings.

Centralization will avoid the possibility of conflicting pretrial rulings. Plaintiffs assert many of the same claims — negligence, strict liability, nuisance, trespass, wantonness and violation of the federal Oil Pollution Act — which could result in inconsistent rulings if addressed separately. *See In re Terrorist Attacks on Sept. 11, 2001*, 295 F. Supp. 2d 1377, 1378 (J.P.M.L. 2003) (noting that overlapping legal issues counsel in favor of transfer). Dispositive and other motions asserted by BPXP, other defendants, and/ or plaintiffs in the various cases will require resolution of essentially the same issues of fact and law. *See In re Air Crash Over Mid-Atlantic On June 1, 2009*, No. MDL 2144, 2010 WL 1529554, at *1 (J.P.M.L. Apr. 14, 2010) (approving centralization where all actions concerned the cause or causes of an airplane crash); *In re Oil Spill by "Amoco Cadiz" Off Coast of France on March 16, 1978*, 471 F. Supp. 473, 478 (J.P.M.L. 1979) (ordering centralization where actions “involve common questions of fact, including questions of fault concerning the steering breakdown; questions of fault with respect to the activities on ship, shore and tug during the hours from the breakdown until the grounding; questions of the causes and amount of damage by pollution; and questions concerning [the government’s] responsibility in aggravating or failing to mitigate damages.”). Issues relating to BPXP’s (and the other defendants’) conduct that arise in pretrial motions can and should be determined by one judge, in one proceeding.

In addition, the Related Cases include 59 putative class actions seeking certification of overlapping classes. There is a substantial risk of inconsistent pretrial rulings where putative

class actions proceed simultaneously in different forums. As the Panel has noted, it “is in the field of class action determinations in related multidistrict civil actions that the potential for conflicting, disorderly, chaotic judicial action is the greatest.” *In re Plumbing Fixture Cases*, 298 F. Supp. 484, 493 (J.P.M.L. 1968); *see also In re Countrywide Fin. Corp. Mortg. Mktg. & Sales Practices Litig.*, 582 F. Supp.2d 1373, 1375 (J.P.M.L. 2008) (ordering consolidation where “[t]he sufficiency of class allegations is an overarching issue in the putative nationwide class actions . . .”); *In re Temporomandibular Joint (TMJ) Implants Prods. Liab. Litig.*, 844 F. Supp. 1553, 1554 (J.P.M.L. 1994) (consolidation necessary to prevent inconsistent pretrial rulings, “especially with respect to class certifications”). This Panel has held that transfer and coordination or consolidation is particularly appropriate, if not essential, in putative class action cases. *In re Imagitas, Inc., Drivers’ Privacy Prot. Act Litig.*, 486 F. Supp.2d at 1372 (ordering transfer of eight class actions to “prevent inconsistent pretrial rulings (especially with respect to issues of class certification)”); *see also In re First Nat’l Bank*, 451 F. Supp. 995, 997 (J.P.M.L. 1978) (Panel consolidated two class actions brought on behalf of the same plaintiff class because “it is desirable to have a single judge oversee the class action issues”); *In re Public Air Travel Tariff Litig.*, 360 F. Supp. 1397, 1399 (J.P.M.L. 1973) (Panel transferred several actions where plaintiffs sought to represent the same class due to the “real danger of conflicting class determinations”).²

B. Transfer Will Eliminate Or Reduce Duplicative Discovery.

The Related Cases are all primarily premised on the same alleged events and conditions, involve the same actors, and are built on many of the same legal theories. Without question, the Related Cases will involve largely duplicative discovery requests and require discovery of the

² Although BPXP seeks consolidation for pretrial proceedings as part of an MDL, nothing in this Memorandum is intended to suggest that class certification, which involves a different standard and consideration of factors not at issue here, is appropriate for any of these claims. BPXP reserves the right to oppose class certification.

same documents and witnesses regarding, among other things, (i) the cause of the explosion on the Deepwater Horizon, (ii) the cause of oil spill and (iii) actions taken by each of the defendants. Absent coordination or consolidation, BXPX and the other defendants would be required to respond to multiple requests for the same information, and witnesses would be required to submit to multiple, duplicative depositions. Moreover, absent centralization, disputes over such discovery would be largely duplicative, and district courts of coordinate jurisdiction deciding discovery disputes may reach contradictory conclusions. Transferring and coordinating will allow disputes to be argued and resolved just once. *See, e.g., In re Ocean Fin. Corp. Prescreening Litig.*, 435 F. Supp. 2d 1350, 1351-52 (J.P.M.L. 2006) (holding that centralization would eliminate duplicative discovery where plaintiffs brought claims on behalf of overlapping putative classes); *In re Teflon Prods. Liab. Litig.*, 416 F. Supp. 2d 1364, 1365 (J.P.M.L. 2006) (holding that transfer was necessary to eliminate duplicative discovery).

C. Transfer Will Conserve The Efforts And Resources Of The Parties, Their Counsel, Witnesses And The Judiciary.

By eliminating or reducing duplicative discovery and avoiding the possibility of conflicting pretrial rulings, coordination will substantially reduce the efforts and expenditure of resources by all parties involved. It would defeat the core purpose of MDL coordination or consolidation to require two or more federal judges to preside over the same claims involving the same parties. Because the same documents, witnesses and physical evidence will be involved, document discovery and other written discovery should be provided once through coordinated discovery, and depositions should proceed once as to all parties instead of numerous times with the need to resolve the scheduling conflicts that no doubt would occur. *See In re Asbestos Prods. Liab. Litig. (No. VI)*, 771 F. Supp. 415, 422 (J.P.M.L. 1991).

Moreover, transfer of these actions for coordinated pretrial proceedings will not unfairly prejudice any plaintiffs. Discovery has not yet commenced in any of the Related Cases. Because there has been no production of discovery and no discovery or pretrial schedules established, there are no practical impediments to expedient coordination and the implementation of uniform pretrial procedures and scheduling.

II. THE RELATED CASES SHOULD BE TRANSFERRED TO THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION.

The Southern District of Texas, Houston Division, is the proper forum for all of the Related Cases because that is where (i) all of the defendants' headquarters, key witnesses and documents are located and (ii) a majority of the state court lawsuits have been filed.

First, defendants BPXP, Transocean, HES and Cameron are all headquartered in the Southern District of Texas and maintain their principal offices, key witnesses and documents in the Houston area. The Panel has identified the location of corporate defendants' headquarters and, correspondingly, the location of the defendants' key documents and witnesses as an important factor when determining the proper forum for MDL proceedings. *See, e.g., In re Delta Air Lines, Inc.*, 170 F. Supp. 2d 1359, 1360 (J.P.M.L. 2001) (observing that "pertinent documents and witnesses" are usually located at the defendant's principal place of business); *In re Air Crash Over Mid-Atlantic*, 2010 WL 1529554, at *1 (transferring to district where three actions are pending and two defendants maintain their principal places of business); *In re Avandia Mktg., Sales Practices and Prod. Liab. Litig.*, 528 F. Supp. 2d 1339, 1341 (J.P.M.L. 2007) (transferring to district of defendant's principal place of business because "many witnesses and documents relevant to the litigation are likely to be found there"); *In re Air Crash Disaster in Ionian Sea on September 8, 1974*, 407 F. Supp. 238, 240 (J.P.M.L. 1976) (transferring to district where one defendant maintains its principal place of business and four individual

defendants reside in part because “a substantial amount of the relevant discovery will occur in that district”).

Second, related state court litigation is also pending in Harris County, Texas, which is encompassed within the Southern District of Texas, Houston Division. *See, e.g., Kleppinger v. Transocean Offshore Deepwater Drilling, Inc., et al.*, No 2010-25245 (Harris County, Texas) (a copy of the Complaint is attached hereto as Exhibit A); *Davis v. Transocean Ltd., et al.*, No. 2010-25752 (Harris County, Texas) (a copy of the Complaint is attached hereto as Exhibit B); *Stone et al. v. Transocean Offshore Deepwater Drilling, Inc.*, No. 2010-25245 (Harris County, Texas) (a copy of the Complaint is attached hereto as Exhibit C). As this Panel has recognized, the presence of state court actions involving common issues of fact favors transfer to the district court that contains them. *See e.g., In re Internal Revenue Serv. § 1031 Tax Deferred Exch. Litig.*, 528 F. Supp.2d 1343, 1344 (J.P.M.L. 2007) (“Nevada is also the location of related state court proceedings, and centralization in the District of Nevada will enhance the potential for coordination between the state and federal courts regarding this matter.”); *In re General Motors Corp. Sec. & Derivative Litig.*, 429 F. Supp.2d 1368, 1370 (J.P.M.L. 2006) (“Further, since Michigan is the situs of related state court proceedings (two shareholder derivative actions), centralization in the Eastern District of Michigan carries the added benefit of fostering coordinated discovery between the federal and state proceedings, should such a need arise.”); *In re Air Crash Disaster at Sioux City, Iowa, on July 19, 1989*, 128 F.R.D. at 132-33 (“Our transfer to the Northern District of Illinois could facilitate coordination among the federal and Illinois state court actions.”) (citing MANUAL FOR COMPLEX LITIGATION, SECOND, § 31.3 (1985)).

Finally, the Southern District of Texas is experienced in handling MDL proceedings, *see, e.g., In re Enron Corp. Securities, Derivative & “ERISA” Litigation*, MDL-1446 (Dist. J.

Melinda Harmon); *In re Service Corporation International Securities Litigation*, MDL-1609 (Dist. J. Lynn N. Hughes); *In re Heartland Payment Systems, Inc., Customer Data Security Breach Litigation*, MDL-2046 (Dist. J. Lee H. Rosenthal), but is not overtaxed by multidistrict litigation. See *In re Gator Corp. Software Trademark & Copyright Litig.*, 259 F. Supp.2d 1378, 1380 (J.P.M.L. 2003) (transferee district selected in part because it was not currently overtaxed with other multidistrict dockets). Indeed, Judge Lynn N. Hughes, who is experienced in managing multidistrict litigation, is the district judge assigned the first-filed case in the Southern District of Texas, Houston Division. See *Nat'l Vietnamese American Fisherman Emergency Assoc. et al., v. BP plc et al.*, No. H-10-01607 (S.D. Tex.). The fact that the Southern District of Texas has both the experience and capacity to manage these pretrial proceedings counsels in favor of its selection as the transferee district.

The Southern District of Texas, Houston Division thus provides the appropriate forum for the Related Cases.

III. THE MDL PROPOSED HEREIN BETTER SERVES THE PURPOSES OF 28 U.S.C. § 1407 THAN THE SMALLER MDL RECENTLY PROPOSED BY CERTAIN PLAINTIFFS.

Shortly before filing the instant Motion, BPXP learned that certain plaintiffs filed a Motion before the Panel on or about April 30, 2010 seeking transfer and consolidation of six (6) of the 70 Related Cases into an MDL known as “*In re: Gulf of Mexico Oil Contamination*.”³ These plaintiffs propose a much more limited MDL that would consist only of those actions alleging “virtually identical” legal theories arising from the defendants’ alleged “designing, manufacturing, selling, and putting into the stream of commerce their defective products.” (4/30/2010 Br. In Support of Mot. to Transfer filed in *In re: Gulf of Mexico Oil Contamination*,

³ BPXP has not yet received a service copy of the Motion filed April 30, and the papers that BPXP obtained did not contain an MDL Docket number.

at p. 2.) Plaintiffs' Motion seeks too little in the way of transfer and consolidation, and the Panel should grant the MDL sought in the instant Motion instead.

Consistent with the plain language of the multidistrict litigation statute, BPXP seeks an MDL that consolidates or coordinates *all* of the 70 Related Cases "involving one or more common questions of fact." 28 U.S.C. § 1407(a). As the Panel has previously recognized, "[t]ransfer under Section 1407 . . . does not require a complete identity or even a majority of common factual or legal issues as a prerequisite to transfer." *In re Merscorp Inc. et al., Real Estate Settlement Procedures Act (RESPA) Litig.*, 560 F. Supp.2d 1371, 1372 (J.P.M.L. 2008); *see also In re Avandia Mktg., Sales Practices and Prods. Liab. Litig.*, 543 F. Supp.2d at 1378 (similar). The plaintiff movants' limitation of the MDL sought in *In re: Gulf of Mexico Oil Contamination* to only those cases sounding in products liability is unnecessarily restrictive under Section 1407. Further, the establishment of two or more MDLs, one or more of which is restricted to cases alleging certain narrow legal theories, would result in the very sort of potential for inconsistent adjudications, overlapping discovery and waste of party and judicial resources that transfer and consolidation under Section 1407 are intended to avoid. Instead, the Panel should transfer and consolidate all of the Related Cases as BPXP requests, which would place "all actions . . . before a single judge who can formulate a pretrial program that: (1) allows discovery with respect to any non-common issues to proceed concurrently with discovery on common issues; and (2) ensures that pretrial proceedings will be conducted in a manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties." *In re Avandia Mktg., Sales Practices and Prods. Liab. Litig.*, 543 F. Supp.2d at 1377 (internal citations omitted).

CONCLUSION

Just two weeks after the Deepwater Horizon incident, seventy cases have already been filed which are subject to coordinated or consolidated pretrial proceedings. Additional cases are likely to be filed. BPXP therefore respectfully requests that the Court consolidate all of the Related Cases listed in the accompanying Schedule of Actions for discovery and pretrial purposes under 28 U.S.C. § 1407 and transfer them to the Southern District of Texas, Houston Division.

Dated: May 7, 2010

Respectfully submitted,

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EXHIBIT A

Filed 10 April 22 P2:09
Loren Jackson - District Clerk
Harris County
ED101J015754153
By: Sharon Carlton

CAUSE NO. 2010-25245

TRACY KLEPPINGER, Individually and
as Representative of the Estate of
KARL KLEPPINGER, Jr. and as next
friend of AARON THOMAS
KLEPPINGER, a minor child

IN THE DISTRICT COURT OF

VS.

HARRIS COUNTY, T E X A S

TRANSOCEAN OFFSHORE
DEEPWATER DRILLING, INC.,
DEEPWATER HORIZON, and
BP PRODUCTS NORTH AMERICA,
INC.

234th JUDICIAL DISTRICT

PLAINTIFFS' FIRST AMENDED ORIGINAL PETITION
and REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, TRACY KLEPPINGER, Individually and as Representative of the Estate of
KARL KLEPPINGER, JR. and as Next Friend of AARON THOMAS KLEPPINGER, a minor child,
Plaintiffs, complaining of and against TRANSOCEAN OFFSHORE DEEPWATER DRILLING,
INC., DEEPWATER HORIZON, and BP PRODUCTS NORTH AMERICAN, INC., Defendants
herein, and for cause of action, would respectfully show as follows:

A. Discovery Control Plan

1. Plaintiffs intend to conduct discovery under Level 3 pursuant to Rule 190.4 of the Texas
Rules of Civil Procedure.

B. Parties

2. Plaintiff, TRACY KLEPPINGER, is an individual and is the wife of Karl Kleppinger and is
the mother of Aaron Thomas Kleppinger, the son of Karl Kleppinger, Jr..

3. Defendant, TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC. is a Corporation
domiciled at 4 Greenway Plaza, Houston, Harris County, Texas and conducting business in the State

of Texas, and can be served with process by serving its registered agent for service of process, Eric B. Brown, at 4 Greenway Plaza, Houston, Texas 77046.

4. Defendant, BP PRODUCTS NORTH AMERICA, INC. is a Maryland corporation but may be served with process by serving its registered agent for service of process in Texas, Prentice Hall Corp System at 211 E. 7TH Street, Suite 620 in Austin, Texas 78701.

C. Venue

5. Venue is proper in Harris County, Texas pursuant to Texas Civil Practice & Remedies §15.0181(c)(1) because Defendant TRANSOCEAN OFFSHORE DEEPWATER DRILLING INC.'s principal office in this state is located in Harris County, Texas.

D. Jurisdiction

6. This is an admiralty and maritime claim within the jurisdiction of this Honorable Court.

7. Karl Kleppinger, Jr. was a seaman and this action is brought pursuant to Title 46 U.S.C. §30104, *et. seq.* and pursuant to the admiralty and general maritime laws of the United States.

E. Factual Summary

8. Plaintiffs would show that this lawsuit has become necessary as a result of an incident, which occurred on or about April 20, 2010. On said date, Karl Kleppinger, Jr. was employed by Defendant, TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC. as a seaman and was assigned as a member of the crew on board the *DEEPWATER HORIZON*, a vessel within the meaning of 46 U.S.C. § 30104, *et. seq.* Karl Kleppinger, Jr.'s duties contributed to the mission of the *DEEPWATER HORIZON*, which is a semi-submersible drilling rig which was in navigation on April 20, 2010 at the time of the incident.

9. On or about April 20, 2010, while working in the course and scope of his employment for Defendants, an explosion and fire occurred on the *DEEPWATER HORIZON*. Plaintiffs will show

that Defendants were negligent and such negligence was a proximate and/or producing cause of the incident and the resulting damages.

10. As of the time of this filing, Karl Keppinger, Jr. is still lost at sea and it is unknown if he is alive and seriously injured or dead. This pleading will be amended upon discovery of additional information.

F. CAUSES OF ACTION

11. At all relevant times, Karl Kleppinger, Jr. was in the course and scope of his employment with the Defendants. The actions and/or inactions of the Defendants, and/or its officers, agents and/or employees constitute negligence. The negligence of the Defendants was a proximate and/or producing cause of the Plaintiffs' damages.

12. Defendants owed a duty to Karl Kleppinger, Jr. to maintain the vessel in a seaworthy condition. However, Plaintiffs will show that the DEEPWATER HORIZON was unseaworthy and that said unseaworthiness was a proximate and/or producing cause of the incident and resulting damages.

G. DAMAGES

13. TRACY KLEPPINGER was the wife of Karl Kleppinger, Jr. AARON THOMAS KLEPPINGER is the minor child of Karl Kleppinger, Jr.. Plaintiffs sue for all damages to which they are entitled by law.

H. REQUEST FOR DISCLOSURE

14. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, each Defendant is requested to disclose, within fifty (50) days after service of this request upon each Defendant, the information or material described in Rule 194.2(a) through (l).

I. JURY DEMAND

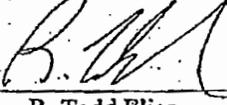
15. Plaintiffs demand a trial by jury. A jury fee is being paid contemporaneously with the filing of this Petition.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that, after trial on the merits, Plaintiffs have judgment against Defendants both jointly and severally for the following:

- a. a sum in excess of the minimum jurisdictional limits of this Honorable Court;
- b. pre-judgment interest thereon at the maximum legal rate;
- c. post-judgment interest thereon at the maximum legal rate;
- d. costs of Court; and,
- e. such other and further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

GORDON, ELIAS, & SEELY L.L.P.

By: 

R. Todd Elias
SBN: 00787427
Jeffrey R. Seely
SBN 24033172
5821 Southwest Freeway, Suite 422
Houston, Texas 77057
(713) 668-9999
(713) 668-1980 (Fax)

ATTORNEYS FOR PLAINTIFFS



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office
this April 22, 2010

Certified Document Number: 45118578 Total Pages: 4

A handwritten signature in black ink, appearing to read "Loren Jackson", with a horizontal line extending from the end of the signature.

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

EXHIBIT B

2010-25752 / Court: 151

Filed 10 April 23 P12:44
Loren Jackson - District Clerk
Harris County
ED101J015755720
By: Sharon Carlton

NO. _____

MATTHEW DAVIS

VS.

TRANSOCEAN LTD., TRANSOCEAN
OFFSHORE DEEPWATER DRILLING
L.L.C., BP EXPLORATION AND
PRODUCTION, INC. and BP, PLC

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

____ JUDICIAL DISTRICT

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL PETITION

Plaintiff MATTHEW DAVIS complains of Defendants TRANSOCEAN LTD., TRANSOCEAN OFFSHORE DEEPWATER DRILLING, L.L.C., BP EXPLORATION AND PRODUCTION, INC., and BP, PLC, and for cause of action respectfully shows this Honorable Court the following:

I.

Discovery in this matter will be conducted pursuant to Level 2.

II.

Defendant TRANSOCEAN LTD. is a foreign company doing business in the State of Texas. TRANSOCEAN LTD. may be served with process through its registered agent for service: Capitol Corporate Services, Inc., 800 Brazos, Suite 400, Austin, Texas 78701.

Defendant TRANSOCEAN OFFSHORE DEEPWATER DRILLING, L.L.C. is a foreign limited liability company doing business in the State of Texas. It can be served through its registered agent: Capitol Corporate Services, Inc., 800 Brazos, Suite 400, Austin, Texas 78701.

Defendants BP EXPLORATION AND PRODUCTION, INC. and BP, PLC are foreign entities that do business in Texas. These Defendants can be served via their registered agent in Texas: C.T. Corporation System, 350 North St. Paul St., Dallas, TX 75201-4234.

III.

Plaintiff is a resident of Mississippi.

IV.

The Court has jurisdiction over this matter in that Defendants do business in the State of Texas. Venue is proper in this matter because two of the Defendants are headquartered in this County.

V.

Plaintiff is an American seaman and brings this action pursuant to Title 46 U.S.C. § 688.

VI.

At all times material hereto, Plaintiff was aboard the DEEPWATER HORIZON as a borrowed employee of the Transocean Defendants. The DEEPWATER HORIZON was owned by the Transocean Defendants, but was leased by the BP Defendants.

VII.

On April 20, 2010, as Plaintiff was performing his regular duties aboard the vessel, he sustained severe injuries to his body, including a injuries to his neck, back, both legs, shoulder, and other parts of his body. Such injuries were legally caused by the negligence of the Defendants, and the unseaworthiness of the Vessel in question. Specifically, the DEEPWATER HORIZON caught fire and exploded, and ultimately sunk, injuring more than twenty, and likely killing eleven. Such incident does not occur without an unseaworthy condition, or negligence. Due to his severe injuries, Plaintiff cannot work. Indeed, in light of the circumstances leading to Plaintiff's injuries, there is a rebuttable presumption that the vessel was unseaworthy. Further, because the vessel was leased to the BP Defendants, such Defendants have a duty to ensure that operations are conducted in a prudent manner. The BP Defendants failed in that regard, legally causing Plaintiff injury.

Plaintiff also specifically pleads the doctrine of *Res Ipsa Loquitur*.

VIII.

By reason of the occurrences made the basis of this action, including the conduct on the part of the Defendants, Plaintiff sustained severe bodily injuries. Plaintiff has suffered physical pain and mental anguish and, in reasonable medical probability, will continue to do so for the balance of his natural life.

IX.

As a result of the foregoing injuries, the Plaintiff has suffered a loss of wages in the past and a loss of or reduction in the capacity to work and earn money in the future and, in reasonable probability, his earning capacity has been impaired permanently.

X.

Additionally, Plaintiff has incurred reasonable and necessary medical expenses in the past and, in reasonable probability will incur reasonable medical expenses in the future.

XI.

Additionally, as a result of the injuries sustained in the occurrences as set forth above, Plaintiff has suffered in the past and will, in reasonable medical probability, continue to suffer permanent physical impairment.

XII.

Pleading further, in the alternative, if it is shown that Plaintiff was suffering from some pre-existing injury, disease and/or condition, then such was aggravated and/or exacerbated as a proximate result of the occurrence made the basis of this lawsuit.

XIII.

Plaintiff is physically impaired as a result of injuries sustained in the above-referenced

occurrences. As a consequence, he has lost the ability to perform household services and, in reasonable probability, this loss is permanent.

XIV.

Plaintiff would show that on the above-mentioned date, he was injured while in the service of a vessel. Because he is a borrowed employee, the Transocean Defendants have, and continue to have, a non-delegable duty to provide the Plaintiff with the benefits of maintenance and cure. Plaintiff would show that he has not reached maximum medical improvement and that Defendants' duty continues. Defendants have denied payment and/or have unreasonably delayed payments for maintenance and cure and/or have paid maintenance in an insufficient amount. Defendants' conduct towards this injured seaman is arbitrary, malicious, capricious, and wrong. As a result of Defendants' failure to pay and/or delay in paying the benefits of maintenance and cure, Plaintiff has suffered further injuries and damages, for which he now sues. Plaintiff would further show that Defendants' failure to provide the benefits of maintenance and cure was not only unreasonable, but was arbitrary and capricious, or willful, callous and persistent, and that as a result thereof, Plaintiff is thus entitled to PUNITIVE DAMAGES, and an award of attorneys' fees, for which he now sues, in addition to all other relief sought.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for judgment against Defendants in the amount of FIVE MILLION, FIVE HUNDRED THOUSAND (\$5,500,000.00), DOLLARS, plus pre- and post-judgment interest at the legal rate, for all costs of court, and all such other and further relief, at law and in equity, to which he may be justly entitled.

PLAINTIFF RESPECTFULLY REQUESTS A TRIAL BY JURY.

Respectfully submitted,

THE BUZBEE LAW FIRM

By: /s/ Anthony G. Buzbee

ANTHONY G. BUZBEE

State Bar No. 24001820

JP Morgan Chase Tower

600 Travis, Suite 7300

Houston, Texas 77002

Phone: 713-223-5393

Fax: 713-223-5392

www.txattorneys.com

ATTORNEYS FOR PLAINTIFF



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office
this April 24, 2010

Certified Document Number: 45132919 Total Pages: 5

A handwritten signature in black ink, appearing to read "Loren Jackson", is written over a horizontal line.

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

EXHIBIT C

B. PARTIES

2. Plaintiffs, Stephen Stone and Sara Stone are residents of Harris County, Texas and bring this suit in their individual capacity.

3. Defendant, TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC., (hereinafter referred to as "Transocean"), is a corporation domiciled at 4 Greenway Plaza, Houston, Harris County, Texas and conducting business in the State of Texas, and can be served with process by serving its registered agent for service of process, Eric B. Brown, at 4 Greenway Plaza, Houston, TX 77046.

4. Defendant, BP Products North America, Inc., ("hereinafter referred to as "BP"), is a Delaware corporation doing business in the State of Texas. Its registered agent for service of process in the State of Texas is Prentice Hall Corporation System, 701 Brazos Street, #1050, Austin, Texas 78701.

5. Defendant, Halliburton Energy Services, Inc., (hereinafter referred to as "Halliburton"), is a Delaware corporation with a principal place of business in Houston, Harris County, Texas and may be served with process by serving its registered agent for service of process, C.T. Corporation Systems, 350 N. St. Paul Street, Suite 2900, Dallas, Texas, 75201.

6. Defendant, Cameron International Corporation d/b/a Cameron Systems Corporation (hereinafter referred to as Cameron), is a Delaware corporation whose principle place of business is in Houston, Harris County, Texas and may be served with process by serving its registered agent for service of process in Texas, CT Corporation System, 350 N. St. Paul St., Suite 2900, Dallas, TX 75201.

7. Defendant MI Swaco is a Texas joint venture company owned by Smith International, Inc., and Schlumberger, Ltd., (hereinafter referred to as "MI Swaco"), with its principal place of business at 5950 North Course Drive, Houston, Texas, 77072 and may be served with process by serving its President, Chris Rivas at 5950 North Course Drive, Houston, Texas 77072.

C. VENUE

8. Venue is proper in Harris County, Texas, pursuant to Texas Civil Practice and Remedies §15.0181(c)(1) because Defendant TRANSOCEAN OFFSHORE DEEPWATER DRILLING INC.'s, principal office in this state is located in Harris County, Texas.

D. JURISDICTION

9. This is an admiralty and maritime claim within the jurisdiction of this Honorable Court.

10. Stephen Stone, was a seaman and this action is brought pursuant to Title 46 U.S.C. §688, *et. seq.* and pursuant to the admiralty and general maritime laws of the United States. This Court has concurrent jurisdiction.

E. INTERVENTION

11. Plaintiffs would show that this lawsuit arises out of the same transaction and occurrences as *Tracy Kleppinger v. Transocean Offshore Deepwater Drilling, Inc. et al.*, Cause No. 2010-25245 and that this intervention is proper pursuant to Rule 60 of the Texas Rules of Civil Procedure.

F. FACTUAL SUMMARY

12. Plaintiffs would show that this lawsuit has become necessary as a result of an incident which occurred on or about April 20, 2010. On said date, Stephen Stone was employed by Defendant, TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC., as a seaman and was assigned as a member of the crew on board the DEEPWATER HORIZON, a vessel within the meaning of 46 U.S.C. § 30104, *et. seq.* Steven Stone's duties contributed to the mission of the DEEPWATER HORIZON, which is a semi-submersible drilling rig which was in navigation on April 20, 2010 at the time of the incident.

13. Halliburton was contracted to provide cement services to the rig Deepwater Horizon by Transocean and/or BP. Upon information and belief Halliburton set or otherwise attempted to set a cement plug at the end of the drilling phase but failed to properly set the plug in violation of industry protocol and policies thus allowing gas to escape around the cement plug or plugs, ultimately resulting in a blowout, ignition and deadly explosion.

14. M.I. Swaco was contracted to provide drilling fluid services to the rig Deepwater Horizon, owned by Transocean and leased to BP. M.I. Swaco in conjunction with Halliburton failed to maintain appropriate drilling fluid weight before and during the cement operation, thus allowing gas to escape ignite, ultimately resulting in a deadly explosion.

15. On or about April 20, 2010, while Plaintiff, Stephen Stone working in the course and scope of his employment on the Deepwater Horizon, a deadly explosion and fire

occurred. Plaintiffs will show that Defendants, were jointly and severally negligent and such negligence was a proximate and/or producing cause of the incident and the resulting damages to Plaintiffs.

G. CAUSES OF ACTION

1. TRANSOCEAN ENTITIES

Transocean was negligent as that term is known in Texas law by:

- a. Failing to provide a competent crew;
- b. Failing to properly supervise its employees;
- c. Failing to properly train and/or supervise Plaintiff and other employees;
- d. Failing to provide Plaintiff with a safe place to work, and requiring Plaintiff to work in unsafe conditions;
- e. Failing to provide sufficient personnel to perform operations aboard the vessel;
- f. Failing to properly follow drilling protocols and policies, proper well monitoring and control practices;
- g. Failing to exercise due care and caution;
- h. Failing to avoid this accident;
- i. Failing to provide Plaintiff Stephen Stone with a seaworthy vessel;
- j. Other acts of negligence which will be shown more fully at trial.

2. BP AND BP PRODUCTS

BP was negligent as that term is known in Texas law by:

- a. Failing to properly train and/or supervise its crew and other employees;

- b. Failing to ensure that its crew worked in a safe and prudent manner;
- c. Failing to provide Plaintiff with a safe place to work, and requiring Plaintiff to work in unsafe conditions;
- d. Failing to exercise due care and caution;
- e. Failing to avoid this accident;
- f. Failing to provide Plaintiff Stephen Stone with a seaworthy vessel;
- g. Other acts of negligence which will be shown more fully at trial.

3. Halliburton

Halliburton was negligent as that term is known in Texas law by:

- a. Failing to properly set cement plugs.
- b. Failing to maintain pressure during cement operation.
- c. Failing to use adequate material for cement services.
- d. Failing to follow industry protocol and procedures for setting cement plugs.
- e. Failing to prevent escape of gas or combustible hydrocarbons to the surface.
- f. Attempting to carry out drilling operations with substandard and defective cement casing.

3. MI Swaco

MI Swaco was negligent as that term is known in Texas Law by:

- a. Failing to monitor pressures of wells.
- b. Failing to use adequate weight drilling fluid to prevent gas escape.
- c. Failing to follow industry protocol and procedure during plug completion phases.

- d. Use of sea water as weight and gas control medium during drilling and completion processes.
- e. Attempting to carry out drilling operations with substandard and defective cement casing.

4. Cameron International Corporation

Cameron International Corporation was negligent as that term is known in Texas.

Law by:

- a. Failing to provide adequate subsea flow control devices;
- b. Failing to properly engineer the subsea gas flow control devices.
- c. Failing to properly install a subsea gas flow control devices.
- d. Failing to properly monitor the subsea engineering and gas flow control devices.
- e. Placing into the stream of commerce a defective blowout preventer which was unfit for the purpose for which it was intended.

H. DAMAGES

16. At all relevant times, Stephen Stone was in the course and scope of his employment with the Defendants. The actions and/or inactions of the Defendants, and/or its officers, agents and/or employees constitute negligence. The negligence of the Defendants was a proximate and/or producing cause of the Plaintiffs' damages.

17. Defendants owed a duty to Stephen Stone to maintain the vessel in a seaworthy condition. However, Plaintiffs will show that the DEEPWATER HORIZON was unseaworthy and that said unseaworthiness was a proximate and/or producing cause of the incident and resulting damages.

18. Defendants jointly and severally also owed a duty to Stephen Stone to provide a safe workplace in consideration of the processes being undertaken by Defendants at the time of the incident made the subject matter of this lawsuit. Defendants failed to do so. As a result of Defendants' negligent acts and omissions, Plaintiff Stephen Stone suffered injuries for which he now sues.

I. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

19. Sara Stone is a person. Defendants acted intentionally and/or recklessly to keep knowledge of her husband's condition from her for more than 24 hours following the incident. Furthermore, they refused to allow her husband to contact her to let her know he was alive. Under their own emergency policies and procedures one of the first orders of business for the Defendants was to determine the status of all employees aboard the vessel at the time of the explosion.

Although, several crewmembers were missing, Defendants should have quickly determined the whereabouts of many individuals on the vessel. They made an intentional decision to withhold this information from the families for an extended time period. Defendants' conduct in withholding this basic information from the families of the seaman working on the rig at the time of the explosion was extreme and outrageous. As a result of this conduct Sara Stone suffered severe and unnecessary emotional distress.

There is no alternative cause of action which would provide a remedy for the severe emotional distress caused by the defendants.

J. LOSS OF CONSORTIUM

20. Plaintiff, Sara Stone, suffered as a result of the Defendants' negligent actions outlined below, loss of consortium, including but not limited to the mutual right of the husband and wife to the affection, solace, comfort, companionship, society, assistance, and sexual relations necessary to a successful marriage and has sustained extreme mental anguish in connection with the injuries to her husband. It is anticipated that she may require medical treatment and counseling in the future as a result of these occurrences.

K. APPLICATION FOR TEMPORARY RESTRAINING ORDER AND APPLICATION TO INSPECT, FILM & PHOTOGRAPH

21. Plaintiffs assert that Defendants may change, alter or destroy documents or physical evidence related to or involved in the incident made the basis of this lawsuit, or unless this Court enters a Temporary Restraining Order ("TRO") restraining Defendants from changing, altering, or destroying any tangible evidence related to the incident. In order for Plaintiffs to properly investigate and pursue their claims and recover their damages and see that justice is done, this Court should restrain Defendants TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC., DEEPWATER HORIZON, BP PRODUCTS NORTH AMERICA, INC., HALLIBURTON ENERGY SERVICES, CAMERON INTERNATIONAL CORPORATION D/B/A CAMERON SYSTEMS CORPORATION and MI SWACO and their agents, corporate parents, servants, employees, contractors, independent contractors and other contract employees attorneys and those acting in

concert with the foregoing Defendants from changing, altering and/or destroying and/or moving evidence of any kind.

L. REQUEST FOR TEMPORARY INJUNCTION

22. Plaintiffs ask the Court to set their application for temporary injunction for a hearing and, after the hearing, issue a temporary injunction against Defendants TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC., DEEPWATER HORIZON, BP PRODUCTS NORTH AMERICA, INC., HALLIBURTON ENERGY SERVICES, CAMERON INTERNATIONAL CORPORATION D/B/A CAMERON SYSTEMS CORPORATION and MI SWACO.

M. DEMAND FOR JURY

23. Plaintiffs demand a jury trial and tender the appropriate fee with the filing of this Original Petition.

N. CONDITIONS PRECEDENT

24. All conditions precedent to Plaintiffs' claims for relief have been performed or have occurred.

O. REQUEST FOR DISCLOSURE

25. Pursuant to Texas Rule of Civil Procedure 194, Plaintiffs request that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

P. NOTICE OF DEMAND FOR PRESERVATION OF ELECTRONICALLY STORED INFORMATION

26. Plaintiffs demand that ALL DEFENDANTS named in Plaintiffs Stephen Stone and Sara Stone's Petition in Intervention preserve all documents, tangible things and electronically stored information potentially relevant to the issues in this cause, in accordance with specific notice provisions as further set forth in the ADDENDUM attached to Plaintiffs' Petition in Intervention as if same was set forth herein for all purposes.

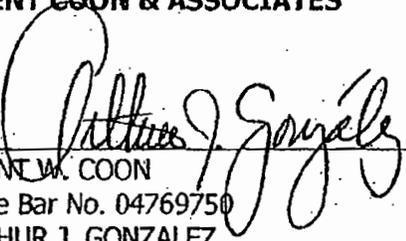
Q. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that, after trial on the merits, Plaintiffs have judgment against Defendants both jointly and severally for the following:

- a. a sum in excess of the minimum jurisdictional limits of this Honorable Court;
- b. pre-judgment interest thereon at the maximum legal rate;
- c. post-judgment interest thereon at the maximum legal rate;
- d. costs of Court; and
- e. such other and further relief to which Plaintiffs may be justly entitled.

Respectfully submitted;

BRENT COON & ASSOCIATES

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