

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

RICHARD C. BRONDUM, JR.; BILL R. BUNDY, JR.; and CYNTHIA JOHNSON, individually, and on behalf of themselves, and all others similarly situated,

Plaintiffs,

- against -

BP, PLC.; BP AMERICA, INC.; BP CORPORATION NORTH AMERICA, INC. F/K/A BP AMOCO CORPORATION; BP COMPANY NORTH AMERICA, INC.; BP PRODUCTS NORTH AMERICA, INC.; TRANSOCEAN, LTD.; TRANSOCEAN DEEPWATER, INC.; TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC.; HALLIBURTON ENERGY SERVICES, INC.; CAMERON INTERNATIONAL CORPORATION F/K/A COOPER CAMERON CORPORATION; M-I, LLC; ANADARKO PETROLEUM CORP.; and MOEX OFFSHORE 2007, LLC,

Defendants.

Case No. _____

Section No. _____

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiffs Richard C. Brondum, Jr., Bill R. Bundy, Jr., and Cynthia Johnson (collectively, “Plaintiffs”), individually, and on behalf of all others similarly situated (the “Class,” defined below), by its undersigned attorneys, alleges upon personal knowledge as to its own acts and upon information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. This is a class action, brought pursuant to Rule 23 of the Federal Rules of Civil Procedure, to recover damages suffered by Plaintiffs and the Class Members arising from the catastrophic oil spill caused by the April 20, 2010 explosion and subsequent sinking of the

offshore oil rig Deepwater Horizon (the “Deepwater Horizon”), operated by Transocean (as that term is defined herein), in the Gulf of Mexico – approximately 50 miles from the Louisiana coast. The incident left 11 workers dead, and critically injured four of the remaining 115-person crew.

2. Following the sinking of the Deepwater Horizon on April 22, 2010, an estimated 504,000 gallons a day have been leaking from the oil well upon which the Deepwater Horizon was performing completion operations, as well as from the pipe connected to it – the drill stack. To date, a conservative estimate of *18 million gallons of oil* have already hemorrhaged into the Gulf.

3. In addition, there is now more than *785,000 gallons of toxic dispersant* that defendants have added to Gulf waters both on the surface and in experimental undersea applications directly on the leaking wellhead – the largest quantity of dispersant deployed to date to break up an oil spill in United States water – in an unsuccessful attempt to plug the still gushing oil.

4. The fast-moving oil slick, which has grown exponentially since April 20th, has, among other things, caused detrimental effects upon the Gulf of Mexico’s and Louisiana’s marine environments, coastal environments and estuarine areas.

5. Plaintiffs and the Class Members are businesses and individuals relying on the natural resources found in the Gulf of Mexico for their livelihood. The oil spill has damaged and will continue to damage the value of Plaintiffs’ and Class Members’ real and personal property, their earning capacity, business income, and/or use of natural resources.

6. On May 3, 2010, BP (as that term is defined herein) said in a statement that it *“takes responsibility for responding to the Deepwater Horizon oil spill. We will clean it up.”*

(Emphasis added). In fact, BP said it “will pay all necessary and appropriate clean-up costs,” stemming from the oil pollution disaster in the Gulf of Mexico.

7. Moreover, its company statement, BP vowed to consider all compensation claims “promptly” and pay them quickly if justified – adding that the company was “committed to pay legitimate and objectively verifiable claims for other loss and damage caused by the spill.” In particular, as the company has acknowledged, “[t]his may include claims for assessment, mitigation and clean-up of spilled oil, real and property damage caused by the oil, personal injury caused by the spill, *commercial losses including loss of earnings/profit and other losses as contemplated by applicable laws and regulations.*” (Emphasis added).

8. Plaintiffs and the Class Members herein allege some of the very same (and legitimate) claims that BP has committed itself to considering and paying as a result of this catastrophic oil spill. In particular, Plaintiffs and the Class Members are businesses and individuals relying on the natural resources found in the Gulf of Mexico for their livelihood, such as owners and operators of charter sport fishing boats companies who have seen almost all bookings cancelled, owners and operators of commercial oyster, shrimp and crab companies who have seen oil reach their fishing waters, wholesalers of fishing supplies to marinas, bait shops, convenience stores and sporting goods stores who have seen purchase orders cease. All of these individuals have been wholly unable to conduct their respective business in light of the oil spill. The oil spill has damaged and will continue to damage the value of Plaintiffs’ and Class Members’ real and personal property, their earning capacity, business income, and/or use of natural resources.

9. While BP has said it would pay for the clean-up, it has blamed the equipment failure on Transocean, as operator of Deepwater Horizon. Also, Halliburton, who was

responsible for sealing with cement the oil extracting drill below the Gulf surface, has been criticized about the cementing of the oil well and pipe that was completed 20 hours before the explosion. Then, there is Cameron, which made the blowout preventer that failed to engage. Despite this finger-pointing, the fire and explosion on the Deepwater Horizon, its sinking and the resulting oil spill were caused by the gross negligence of each of the defendants, rendering them liable jointly and severally to Plaintiffs and the Class Members for all their damages.

PARTIES

Plaintiffs

10. Plaintiff Richard C. Brondum, Jr. is a Louisiana resident doing business in this District, who earns his livelihood as a charter boat captain that operates fishing charter service in the inland waters and Gulf of Mexico. Plaintiff operates out of Houma, Louisiana and fishes in and outside of Terrebonne Bay in Terrebonne Parish, Louisiana. Plaintiff has been harmed and suffered damages as a result of the contamination caused by the spill and the events alleged herein.

11. Plaintiff Bill R. Bundy, Jr., is a Louisiana resident doing business in this District, who earns his livelihood as a wholesaler of freshwater and saltwater fishing tackle to established businesses such as marinas, bait shops, convenience stores and sporting goods stores in several locations throughout coastal Louisiana. Plaintiff has been harmed and suffered damages as a result of the contamination caused by the spill and the events alleged herein.

12. Plaintiff Cynthia Johnson is a Louisiana resident doing business in this District, who earns her livelihood as a commercial oyster farmer, shrimper and crabber that operates out of Vermillion Bay in Vermillion Parish, Louisiana. The leaking oil has reached Vermillion Bay, causing the closure of her fishing waters, and therefore, immediately halted her entire business.

Plaintiff has been harmed and suffered damages as a result of the contamination caused by the spill and the events alleged herein.

Defendants

The BP Defendants

13. Defendant BP, Plc. is a British corporation, organized under the laws of the United Kingdom. BP, Plc. does business within this District, in the State of Louisiana, and throughout the United States. BP is one of the world's largest oil companies.

14. Defendant BP America, Inc. ("BP America") is a Delaware corporation with its principal place of business in Warrenville, Illinois. BP America does business within this District, in the State of Louisiana, and throughout the United States. BP America is a subsidiary of BP.

15. Defendant BP Corporation North America, Inc., f/k/a BP Amoco Corporation ("BP Amoco"), is an Indiana corporation with its principal place of business in Houston, Texas. BP Amoco does business within this District, in the State of Louisiana, and throughout the United States. BP Corporation North America, Inc. is a subsidiary of BP America.

16. Defendant BP Company North America, Inc. ("BP NA") is a Delaware Corporation with its principal place of business in Warrenville, Illinois. BP NA does business within this District, in the State of Louisiana, and throughout the United States. BP NA is a subsidiary of BP Amoco.

17. Defendant BP Products North America, Inc. ("BP Products") is a Maryland corporation, with its principal place of business in Houston, Texas. BP Products does business within this District, in the State of Louisiana, and throughout the United States. BP Products is a subsidiary of BP Company North America, Inc.

18. Defendants BP America, BP Amoco, BP NA and BP Products are wholly owned subsidiaries of the global parent corporation, Defendant BP, Plc. Collectively, they are all referred to herein as “BP.”

The Transocean Defendants

19. Defendant Transocean, Ltd. (“Transocean, Ltd.”) is a Swiss corporation. Transocean, Ltd. does business within this District and in the State of Louisiana. Transocean Ltd. is the world’s largest offshore drilling contractor and leading provider of drilling management services worldwide.

20. Defendant Transocean Deepwater, Inc. (“Transocean Deepwater”) is a Delaware corporation with its principal place of business in Houston, Texas. Transocean Deepwater does business within this District, in the State of Louisiana and throughout the United States. Transocean Deepwater is a subsidiary of Transocean Ltd.

21. Defendant Transocean Offshore Deepwater Drilling, Inc. (“Transocean Offshore”) is a Delaware corporation with its principal place of business in Houston, Texas. Transocean Offshore does business within this District, in the State of Louisiana and throughout the United States. Transocean Offshore is a subsidiary of Transocean Ltd. Transocean is the world’s largest offshore drilling contractor.

22. Defendants Transocean Deepwater and Transocean Offshore are wholly owned subsidiaries of the global parent corporation, Transocean Ltd. Collectively, they are all referred to herein as “Transocean.”

Defendant Halliburton

23. Defendant Halliburton Energy Services, Inc. (“Halliburton”) is a Delaware corporation with two headquarters, one in Houston, Texas and one in Dubai, United Arab Emirates. Halliburton does business within this District, in the State of Louisiana and throughout

the United States. Halliburton is one of the world's largest providers of products and services to the energy industry.

Defendant Cameron

24. Defendant Cameron International Corporation f/k/a Cooper-Cameron Corporation ("Cameron") is a Delaware Corporation with its principal place of business in Houston, Texas. Cameron does business within this District, in the State of Louisiana and throughout the United States. Cameron is a global provider of pressure control, processing, flow control and compression systems as well as project management and aftermarket services for the oil and gas and process industries.

Defendant M-I

25. Defendant M-I, LLC ("M-I") is a Texas corporation with its principal place of business in Houston, TX. M-I does business within this District, in the State of Louisiana and throughout the United States. M-I, known as M-I SWACO, supplies drilling and completion fluids and additives to oil and gas companies, providing pressure control, rig instrumentation, and drilling waste management products and services.

Defendant Anadarko

26. Defendant Anadarko Petroleum Corp. ("Anadarko") is a Delaware corporation with its principal place of business in The Woodlands, Texas. Anadarko does business within this District and in the State of Louisiana. Anadarko is an oil and gas exploration and production company that owns a 25% interest in the Macondo well at Mississippi Canyon Block 252.

Defendant MOEX

27. Defendant MOEX Offshore 2007, LLC ("MOEX") is incorporated in Delaware and has its principal place of business in Houston, Texas. MOEX does business within this District and in the State of Louisiana. This entity is a subsidiary of MOEX USA Corporation.

MOEX Offshore 2007 holds a 10% interest in the Macondo well at Mississippi Canyon Block 252.

JURISDICTION AND VENUE

28. This Court has jurisdiction over this class action pursuant to 28 U.S.C. § 1332(d)(2), because the matter in controversy exceeds the sum or value of \$5,000,000.00, exclusive of interest and costs, and because it is a class action brought by citizens of a State that is different from the State where at least one of the Defendants is incorporated or does business.

29. Jurisdiction is also appropriate under 28 U.S.C. § 1331, because the claims asserted by Plaintiffs arise under the laws of the United States of America, including the laws of the State of Louisiana which have been declared, pursuant to 43 U.S.C. § 1331(f)(1) and 1333(a)(2), to be the law of the United States for that portion of the outer Continental Shelf from which the oil spill originated. Title 43 U.S.C. § 1331 (1) extends exclusive Federal jurisdiction to the outer Continental Shelf.

30. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a)(2) because a substantial portion of the events or omissions giving rise to the claims asserted herein occurred in this District, and Defendants have received substantial compensation and other transfers of money in this District by doing business here and engaging in activities having an effect here.

SUBSTANTIVE ALLEGATIONS

Background

31. Deepwater Horizon was an ultra-deepwater dynamic positioned semi-submersible oil rig built in 2001. It was owned by Transocean and leased to BP through September 2013. It was one of the largest rigs of its kind.

32. BP leased the Deepwater Horizon to drill exploratory wells at the Macondo prospect site in Mississippi Canyon Block 252, a location on the outer Continental Shelf off the coast of Louisiana.

33. Defendant BP holds the lease granted by the U.S. Minerals Management Service (“MMS”) that allows BP to drill for oil and perform oil-production-related operations at the Macondo site in the Mississippi Canyon Block 252 section of the outer Continental Shelf in the Gulf of Mexico. As of April 20, 2010, BP operated the Macondo oil well that is the source of the current catastrophic oil spill at issue herein.

34. Defendant Transocean owned, and BP was leasing and operating, the Deepwater Horizon, which was performing completion operations on the Macondo well on the outer Continental Shelf off the Gulf Coast, at the site from which the oil spill now originates.

35. At all times material hereto, the Deepwater Horizon was owned, manned, possessed, managed, controlled, chartered, or operated by Transocean or BP.

36. Defendant Halliburton was engaged in cementing operations of the well and well cap aboard the Deepwater Horizon and, upon information and belief, improperly and negligently performed these duties, increasing the pressure at the well and contributing to the fire, explosion and resulting oil spill.

37. Upon information and belief, Defendant Cameron manufactured and/or supplied the Deepwater Horizon’s blow-out preventer valve (“BOPs”), a series of valves/seals that failed to control pressure and prevent the release of oil at the time of the explosion. The BOPs were defective because they allegedly failed to operate as intended.

38. Upon information and belief, Defendant M-I provided the drilling fluids for the Deepwater Horizon at the time of the explosion.

The Deepwater Horizon Explosion

39. On April 20, 2010, the Deepwater Horizon was creating a cement seal and plug of the wellhead as part of the final phases of turning the Macondo well from an exploratory well into a production well. "Cementing" is delicate work that carries the risk of a blowout, which is the uncontrolled release of oil from the well.

40. During the course of this cementing work, an explosion occurred on the Deepwater Horizon and it caught fire, causing the deaths and injuries of many workers on the rig. Investigators believe the explosion was a blowout, likely caused by the cementing work the Deepwater Horizon had been performing.

41. The fire burned for two days and the rig began to list progressively more until it finally sank on April 22, 2010.

42. Deepwater Horizon had been connected to the wellhead at the seafloor by a 5,000-foot pipe called a riser. As the Deepwater Horizon sank to the seafloor, it pulled the riser down with it, bending and breaking the pipe before finally tearing away from it completely. The riser, bent into a crooked shape underwater, now extends from the well to 1,500 feet above the seabed and then buckles back down. Oil is flowing out from the open end of the riser and from two places along its length.

43. The emergency valve, installed on the wellhead for just such a disaster, failed to seal the wellhead as it should have, leaving the well spewing oil into the Gulf waters.

The Damage Caused

44. Although the now-leaking wellhead is fitted with a blowout preventer, the BOP, a stack of hydraulically activated valves at the top of the well designed to pinch the pipe closed, cut it, and seal off the well in the event of a sudden pressure release exactly like the one that

occurred during the Deepwater Horizon blowout, the response teams have been unable to activate the Deepwater Horizon's BOP.

45. If the BOP on the wellhead had been functional, it could have been manually or automatically activated right after the explosion, cutting off the flow of oil at the wellhead, limiting the spill to a minute fraction of its current severity and thereby sparing Plaintiffs and Class Members millions of dollars in losses and damage.

46. More than 504,000 gallons per day of crude oil have been leaking from the wellhead and broken riser, bubbling up to the surface and flattening out into a widening slick of oil. At present, a conservative estimate of 18 million gallons of oil have already hemorrhaged into the Gulf. The growing, fast-moving, rainbow-colored smear is large enough to be visible from outer space, covering more than 3,500 square miles, and spreading with the wind and currents towards the Louisiana, Mississippi, Alabama and Florida coastlines.

47. The ever-expanding oil slick made landfall on the fragile Louisiana coastline on April 30, 2010, and has continued to affect more and more Gulf coastline as it is driven landward by winds and currents. In fact, the oil spill's impact on shore now stretches across 150 miles, from Dauphin Island, Alabama, to Grand Isle, Louisiana.

48. Although BP has begun its attempts to stop the flow to the leaking well, the relief has been unsuccessful so far and may take months (or even years) to complete, while oil continues to flow out of the leaking well.

49. The spilled oil has already caused substantial damage to the Gulf of Mexico's and Louisiana's marine, coastal and estuarine environments, which are used by Plaintiffs and the Class Members to earn their livelihoods. With the wellhead unabated gushing of hundreds of

thousands of gallons of oil per day into the waters near Louisiana, Plaintiffs and Class Members are suffering and will continue to suffer serious losses.

50. At the time of this filing, the wellhead has not been capped and the flow of oil continues unabated into the Gulf waters.

51. In addition, there is now more than 785,000 gallons of toxic dispersant that BP has added to Gulf waters both on the surface and in experimental undersea applications directly on the leaking wellhead – the largest quantity of dispersant deployed to date to break up an oil spill in United States waters.

52. While the media has compared this spill to the 1989 Exxon Valdez disaster, one crucial difference is that the Valdez was a tanker with a limited supply of oil. Experts estimate that the volume of this continuous gush of oil will eclipse that of the Valdez spill within 50 days. In contrast, the relief well will most likely take 60 to 90 days to complete, virtually ensuring this spill's classification as the worst oil spill in history.

53. Even worse, the floating booms BP has set out to block the oil from reaching the coastline may be too low and/or be placed too far out to sea to be useful. Experts report that anything higher than a three-foot wave will clear the boom, lifting the oil slick over the barriers with it. Over the past few days, the Gulf has been experiencing seven- to ten-foot swells, diminishing the usefulness of any of these booms.

54. As the oil continues to make landfall along the Gulf Coast, it will cause severe damage to the delicate wetlands and intertidal zones that line the coast of Louisiana, destroying the habitats where fish, shellfish, and crustaceans breed, spawn, and mature.

55. The timing of this disaster makes it even more damaging, as May is spawning season for some sea life and migration time for the young of some species of shrimp and various

pelagic fish. Such devastation at the literal source of life for so many species will severely damage and perhaps even destroy the livelihoods of the Plaintiffs and Class Members, who rely on this sea life for their livelihoods.

56. On May 2, 2010, the National Oceanographic and Atmospheric Administration (“NOAA”) restricted fishing for in Federal waters between Louisiana state waters at the mouth of the Mississippi River and the waters off Florida’s Pensacola Bay, a total area of 6,800 square miles. On May, 24, 2010, NOAA and U.S. Commerce Secretary Gary Locke determined there has been a “fishery disaster” in the Gulf of Mexico due to the economic impact on commercial and recreational fisheries from the ongoing Deepwater Horizon oil spill. The affected area includes the states of Louisiana, Mississippi and Alabama.

57. The Gulf region accounts for about one-fifth of the total U.S. commercial seafood production and nearly three-quarters of the nation’s shrimp output, in total harvesting more than one billion pounds of finfish and shellfish per year. Nearly a third of all marine recreational fishing trips, including the \$1 billion per year sport-fishing industry, take place on Gulf waters, according to the NOAA. In 2008, the 3.2 million recreational fishermen in the Gulf of Mexico region took 24 million fishing trips.

58. In addition, restaurant owners and seafood retailers, such as Plaintiffs, face an uncertain summer. The massive oil spill is generating questions about availability and cost of seafood to restaurant owners and operators. The threat to their biggest season is real, as U.S. Commerce Secretary Gary Locke has recently said: “Our number one goal is to ensure the safety of the American public so that they can feel confident that the seafood that they are purchasing or eating is, in fact, safe and healthy.”

59. All of these activities and businesses will be severely impacted or destroyed by this catastrophic oil spill.

Defendants' Failure To Prevent The Catastrophe

60. The risks of offshore drilling are well known to Defendants, and are especially high in the Gulf of Mexico, where floating rigs are used, unlike the permanent rigs used in other areas such as the North Sea. Permanent rigs are anchored to the ocean floor and cannot sink, while floating rigs are far more precarious and subject to disastrous results like this incident.

61. Moreover, Defendants knew the work the Deepwater Horizon was performing was especially risky. In 2007, the MMS raised concerns about oil rig blowouts associated with the exact type of cementing work the Deepwater Horizon was doing when it exploded. Although blowouts due to other causes were on the decline, the MMS study noted that blowouts during cementing work were continuing with regularity, and most frequently in the Gulf of Mexico. Cementing problems were associated with 18 of 39 blowouts between 1992 and 2006, and 18 of 70 from 1971 to 1991. Nearly all the blowouts examined occurred in the Gulf of Mexico.

62. Defendants were aware of the recent August 2009 blowout in the Timor Sea, which was found to have been caused by careless cementing work. During that incident, which bears a strong resemblance to the Deepwater Horizon blowout, oil leaked from the site for ten weeks, spreading damage over 200 miles from the well site.

63. The threat of blowouts increases as drilling depth increases. Deepwater Horizon was drilling in 5,000 feet of water, to a total depth of 18,000 feet below the sea floor. Defendants were aware of the high risk of blowouts from such deep drilling.

64. In addition to increasing the risk of blowouts, deep-sea drilling also increases the failure risk of the chief blowout safety mechanism, the BOP. Defendants were aware of the risk

of the BOP failing at greater depths, yet did not install a backup BOP activation system or a backup BOP.

65. A 2004 study by Federal regulators showed that BOPs may not function in deep-water drilling environments because of the increased force needed to pinch and cut the stronger pipes used in deep-water drilling. Only three of 14 rigs studied in 2004 had BOPs able to squeeze off and cut the pipe at the water pressures present at the equipments' maximum depth. "This grim snapshot illustrates the lack of preparedness in the industry to shear and seal a well with the last line of defense against a blowout," the study said. Moreover, the study singled out Defendant Cameron, the manufacturer of the Deepwater Horizon's BOP, for relying on faulty calculations to determine the needed strength for its BOP equipment to function properly at greater depths.

66. According to an April 28, 2010 article in *The Wall Street Journal*, "Leaking Oil Well Lacked Safeguard Device," the oil well currently spewing crude into the Gulf of Mexico did not have a remote-control shut-off switch used in two other major oil-producing nations, and Brazil, as last-resort protection against underwater spills. The lack of the device, called an acoustic switch, could amplify concerns over the environmental impact of offshore drilling after the explosion and sinking of the Deepwater Horizon rig last week.

67. With the remote control, a crew can attempt to trigger an underwater valve that shuts down the well even if the oil rig itself is damaged or evacuated. *The Wall Street Journal* article observes that the U.S. considered requiring a remote-controlled shut-off mechanism several years ago, but drilling companies questioned its cost and effectiveness, according to the agency overseeing offshore drilling. The agency, the Interior Department's Minerals Management Service, says it decided the remote device wasn't needed because rigs had other back-up plans to cut off a well.

68. Defendants could have installed a back up trigger to activate the BOP in the event of the main trigger failing to activate it. Although the backup trigger is a common drill-rig requirement in other oil-producing nations, including other areas where BP operates, the Deepwater Horizon was not equipped with this backup remote BOP trigger. Nor was the Deepwater Horizon equipped with a second, backup BOP, as newer rigs increasingly are.

69. *The Wall Street Journal* article points out that an acoustic trigger costs a mere \$500,000. This is a minor cost when considering that the Deepwater Horizon has a replacement cost of about \$560 million, and BP says it is spending \$6 million a day to battle the oil spill.

70. Deepwater Horizon only had one BOP installed, leaving the wellhead vulnerable to disaster if the single BOP fails, as it may have done in this case. In fact, on May 7, 2010, *The Wall Street Journal* reported in “Oil Regulator Ceded Oversight to Drillers” that the Deepwater Horizon did have an automatic “dead man switch,” or a separate, remote-control on-off switch to activate the BOP, but it failed to activate the BOP. On top of that failure, the Deepwater Horizon lacked the separate, remote-control switch that is commonly used in Norway and Brazil.

71. Defendants’ failure to take precautionary backup measures when drilling at depths they knew to be especially risky is made all the worse by the fact that Defendants were drilling so close to an extremely delicate and important natural resource: the Gulf Coast marshes, wetlands, and estuaries that are a wellspring of marine life, and the source of Plaintiffs’ and Class Members’ livelihoods.

72. Defendant BP has a history of cutting corners on safety to reduce operating costs. In 2005, a blast at a Texas refinery killed 15 people and injured more than 170, Federal investigators found the explosion was in part due to cost-cutting and poor maintenance. Also in 2005, a large production platform in the Gulf of Mexico began listing severely due to a defective

control system. And in 2006, four years after being warned to check its pipelines, BP had to shut down part of its Prudhoe Bay oilfield in Alaska after oil leaked from a corroded pipeline.

73. Nevertheless, BP continues to fight for less regulation of the oil exploration and production industry. In 2009, Defendant BP spent \$16 million lobbying the Federal government on issues including encouraging removing restrictions on drilling on the Continental Shelf, despite its history of spills and explosions and its knowledge of the high risks involved in such drilling.

74. Moreover, Defendants have actively opposed MMS rules requiring oil rig lessees and operators to develop and audit their own Safety and Emergency Management Plans, insisting that voluntary compliance will suffice. the Deepwater Horizon incident is a tragic example to the contrary. According to a May 6, 2010 *Associated Press* article, “Feds Let BP Avoid Filing Blowout Plan For Gulf Rig,” BP did not file a plan to specifically handle a major oil spill from an uncontrolled blowout at its Deepwater Horizon project because the federal agency that regulates offshore rigs changed its rules two years ago to exempt certain projects in the central Gulf region.

75. It remains unclear whether the Deepwater Horizon project was covered by the blowout rule. Instead, a site-specific exploration plan filed by BP in February 2009 stated that it was “not required” to file “a scenario for a potential blowout” of the Deepwater Horizon well. According to the article, when questioned about the exemption claim, BP spokesman William Salvin said provisions for handling a blowout incident were actually included in the firm’s 582-page region oil spill plan, though he had difficulty pointing to specific passages. Mr. Salvin later maintained that the Deepwater Horizon location was not subject to the blowout scenario requirements because it triggered none of the conditions cited in the MMS’s April 2008 notice to

operators about a loosening of the rules. Still, Mr. Salvin insisted that BP was prepared to handle a blowout and catastrophic spill at the project through provisions included in its regional plan: “We have a plan that has sufficient detail in it to deal with a blowout,” while acknowledging that the ongoing crisis at the Deepwater Horizon site is “uncontrolled.”

76. The fire and explosion on the Deepwater Horizon, its sinking and the resulting oil spill were caused by the negligence of Defendants, which renders them liable jointly and severally to Plaintiffs and the Class Members for all their damages.

77. The injuries and damages suffered by Plaintiffs and the Class Members were caused by Defendants’ negligent, willful, and/or wanton failure to adhere to recognized industry standards of care and safety practices.

78. Defendants knew of the dangers associated with deep water drilling and failed to take appropriate measures to prevent damage to Plaintiffs, the Class Members, Louisiana’s and the Gulf of Mexico’s marine, coastal and estuarine areas, where Plaintiffs and the Class Members work and earn a living. Moreover, additional safety mechanisms, technologies, and precautions were known and available to Defendants, but Defendants chose not to employ them on the Deepwater Horizon.

After The Spill, Defendants’ Failed Efforts

79. On May 3, 2010, thirteen days after the explosion, Defendant BP said in a statement that it “takes responsibility for responding to the Deepwater Horizon oil spill. We will clean it up.” BP has said it would pay “all necessary and appropriate clean-up costs” from the oil pollution disaster in the Gulf of Mexico, and vowed to consider all compensation claims “promptly” and pay them quickly if justified. Specifically, BP announced that it “committed to pay legitimate and objectively verifiable claims for other loss and damage caused by the spill.” “This may include claims for assessment, mitigation and clean-up of spilled oil, real and property

damage caused by the oil, personal injury caused by the spill, commercial losses including loss of earnings/profit and other losses as contemplated by applicable laws and regulations.”

80. But, immediately after the explosion, Defendants attempted to downplay and conceal the severity of the oil spill. Their initial leak estimate of 1,000 barrels per day was found by government investigators to be a fraction of the actual leak amount of 5,000 barrels of oil per day. Moreover, Defendants were slow and incomplete in their announcements and warnings to Gulf Coast residents and business people about the severity, forecast, and trajectory of the oil spill.

81. According to *The New York Times* article titled “Amount of Spill Could Escalate, Company Admits,” on May 4, 2010, in a closed-door briefing for members of Congress, a senior BP executive also conceded that the ruptured oil well in the Gulf of Mexico could conceivably spill as much as 60,000 barrels a day of oil, more than 10 times the estimate of the current flow. This admission further broadens the scope of the problem, which has grown drastically since the Deepwater Horizon oil rig exploded and sank into the Gulf of Mexico.

82. Also on May 4, 2010, BP’s chief executive officer, Tony Hayward, told Senator Bill Nelson, Democrat of Florida, that the spill would clearly cause *more than \$75 million* in economic damage, the current cap on liability for drilling accidents.

83. BP has blamed the equipment failure on the Deepwater Horizon, which in turn caused both the explosion and its continuing damage, on the rig operator, Transocean. In fact, according to a May 10, 2010 article, “Rig Owner Had Rising Tally of Accidents,” *The Wall Street Journal* reports that “[n]early *three of every four incidents* that triggered federal investigations into safety and other problems on deepwater drilling rigs in the Gulf of Mexico since 2008 have been on rigs operated by Transocean.” (Emphasis added). Moreover:

Already the largest deep-water driller, Transocean in November 2007 took over rival GlobalSantaFe in an \$18 billion deal. A *Journal* analysis of records maintained by the U.S. Minerals Management Service found that Transocean's share of incidents in deep water investigated by the regulator has gone up since the merger, even after accounting for its increased size.

From 2005 through 2007, a Transocean rig was involved in 13 of the 39 deep-water drilling incidents investigated by the MMS in the Gulf of Mexico, or 33%. That's roughly in line with the percentage of deep-water rigs, 30%, Transocean owned and operated in the Gulf then, according to data firm RigLogix.

Since the merger, ***Transocean has accounted for 24 of the 33 incidents investigated by the MMS, or 73%***, despite during that time owning fewer than half the Gulf of Mexico rigs operating in more than 3,000 feet of water.

(Emphasis added). The article notes that some of Transocean's clients have cited the merger as a reason they believe the company's performance has dropped.

84. While the cause of the April 20th explosion has not been determined, and the investigation is ongoing, investigators are now focusing on two things: (i) a cement seal meant to keep oil and gas from escaping from a well; and (ii) the blowout preventer, or BOP, a set of valves on the ocean floor that is supposed to close off a well in an emergency. MMS records show that Defendant Transocean has had problems with both. According to the May 10th article in *The Wall Street Journal* article, in 2006, regulators found, a BOP failed, in part because of maintenance issues, and in 2005, a well leaked drilling fluid because of problems with the cement seal.

85. Many questions continue to linger, but the immediate cause of the explosions aboard Deepwater Horizon appears to have been from a build-up of a bubble of methane hydrates – natural gas compressed into molecular cages of ice – through the riser. This quickly expanding pocket of methane gas shot up the drill column before exploding on the platform on the ocean's surface. But, several events leading up to the explosion are believe to have caused or exacerbated the release of methane gas, including faulty materials and procedures used in the

cementing process for the well, removal of mud from the riser, defects relating to the blowout preventer valve and improper well depth. Even the emergency valve, installed for just such a disaster, failed to seal the wellhead as it should have, leaving the well spewing oil into the Gulf waters.

86. The oversight and investigations subcommittee of the House Energy and Commerce Committee has held several hearings, to which top executives of Defendants BP, Transocean and Halliburton have appeared. Also, the Senate energy committee summoned executives from Defendants BP and Transocean, as well as a number of oil industry technical experts to another future hearing. These hearings are likely the first of many, which will look at the possible problems leading to explosions on the rig as well as the adequacy of containment and cleanup measures. A separate federal investigation into the explosion is under way by the Coast Guard and MMS.

87. On May 7, 2010, BP announced that it planned to lower a concrete-and-steel structure known as a “containment dome” almost a mile to the seafloor in an effort to stop the flow of oil from the drilling site. But gas hydrates – ice-like solids that form when methane gas combines with water under certain conditions – clogged the opening at the top of the dome, preventing oil from being funneled to the surface. Doug Suttles, BP’s chief operating officer, on a media conference call, said: “I wouldn’t say it has failed. What I would say is what we attempted to do last night wasn’t successful.”

88. BP removed the hydrates, and took time to determine its next steps. As of filing of this Complaint, Defendants had tried several different fixes for the problem, but are still without a solution. They have tried and failed with a “junk shot,” filling the BOP with debris (*i.e.*, shredded tires and golf ball), followed by heavy fluids, followed by cement to seal it closed – all

in an attempt to “clog up” the leak. They have tried and not yet been successful with a tactic called a “top kill” – force-feeding the leak heavy drilling mud and cement – which is routinely used above ground but has never been tried 5,000 feet underwater.

89. On May 9, 2010, *The Wall Street Journal* in “U.S. Considers ‘Malfeasance’ in Leak,” quotes Coast Guard Admiral Thad Allen, who is leading U.S. government efforts to tackle the disaster, who called it “maddening” that efforts by BP so far to stop the leak have failed. The article also quotes Sen. Richard Shelby (R. Ala.), who told CNN’s “State of the Union,” that “[a] lot of this could have been prevented.... Where was BP? Were they trying to do this on the cheap? ...Sooner or later there could be a gusher.”

90. Two teams of scientists calculated the well has been spewing between 504,000 and more than a million gallons a day. Even using the most conservative estimate, that means about 18 million gallons have spilled so far. In the worst-case scenario, 39 million gallons have leaked. As of May 24, 2010, the Gulf of Mexico oil spill has cost \$930 million so far.

91. The oil spill and the resulting contamination have caused and will continue to damage the value of Plaintiffs’ and Class Members’ real and personal property, their earning capacity, business income, and/or use of natural resources.

92. There are many other potential affects from the oil spill that have not yet become known, and Plaintiffs reserve the right to amend this Complaint once additional information becomes available.

PLAINTIFFS’ CLASS ACTION ALLEGATIONS

93. Plaintiffs bring this action and each of the claims herein, on their own behalf and on behalf of all others similarly situated pursuant to Federal Rules of Civil Procedure 23.

94. Plaintiffs bring this action as a class action on behalf of a Class, consisting of all persons who have been impacted by the oil spill and any subsequent remedial events as follows:

All persons or entities who live or work in, or derive income from, the Louisiana “Coastal Zone,” as that term is defined in 43 U.S.C. §1331(e), and who have sustained any legally cognizable business and/or economic losses 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.

95. Excluded from the Class are: (a) the officers and directors of any of the Defendants; (b) any entity or division in which any Defendant(s) has a controlling interest; (c) any judge or judicial officer assigned to this matter and his or her immediate family; (d) any individual who has claims for personal physical, bodily injury as a result of the April 20, 2010 fire and explosion that is the subject of this action; and (d) any legal representative of Defendants, successor, or assign or any excluded persons or entities.

96. **Numerosity.** The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are hundreds or even thousands in the proposed Class comprised of individuals and businesses in the affected area, which have been or may in the future be damaged by the subject oil spill and/or any actual or planned remediation efforts.

97. **Typicality.** Plaintiffs’ claims are typical of the claims of the members of the Class, as all members of the Class are similarly affected by Defendants’ wrongful conduct in violation of laws/regulations, claims, causation and/or damages complained of herein.

98. **Adequacy of Representation.** Plaintiffs will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class litigation.

99. Plaintiffs and their counsel are committed to prosecuting this action vigorously on behalf of the Class and have the financial resources to do so. Neither Plaintiffs nor their Counsel has interests adverse to those of the Class.

100. ***Predominance of Common Questions of Fact and Law.*** Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- (a) whether Defendants caused and/or contributed to the explosion, fire, and oil spill;
- (b) whether Defendant were negligent in the design, maintenance, manufacture, and/or operation of the of the oil rig, its pipes, valves, and other machinery and materials;
- (c) whether Defendants knew or should have known of the risk of a major failure of the rig such as that which caused it to fail and resulted in the explosion, fire, and oil spill;
- (d) whether Defendants knew of, or should have utilized, all available safety mechanisms to prevent a blowout and/or seal the wellhead;
- (e) whether Defendants knew or should have known that their activities would cause damage to Plaintiffs;
- (f) whether Defendants acted maliciously or with reckless disregard to the risk of a major failure of the rig, its pipes, valves, and other machinery and materials;
- (g) whether Defendants breached duties owed to Plaintiffs and the Class, as alleged herein;
- (h) whether the law was violated by Defendants' acts as alleged herein; and
- (i) whether members of the Class have sustained damages and what measure of damages is proper.

101. ***Superiority.*** A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable.

Furthermore, without a class action, individual Class Members would face burdensome litigation expenses, deterring them from bringing suit or adequately protecting their rights. Because of the ratio of the economic value of the individual Class Members' claims in comparison to the high litigation costs in complex environmental cases such as this, few could likely seek their rightful legal recourse. Absent a class action, Class Members would continue to incur harm without remedy. There will be no difficulty in the management of this action as a class action.

102. The consideration of common questions of fact and law will conserve judicial resources and promote a fair and consistent resolution of these claims.

COUNT I

(Negligence Against All Defendants)

103. Plaintiffs repeat and reallege each and every allegation contained above.

104. Defendants owed a duty to Plaintiffs and Class Members to exercise reasonable care in the construction, operation, inspection, training, repair and maintenance of the Deepwater Horizon and oil well.

105. Defendants had a heightened duty of care to Plaintiffs and Class Members because of the great danger and environmental concerns associated with the drilling of oil.

106. Defendants breached their legal duty to Plaintiffs and Class Members by failing to exercise reasonable care and acting with reckless, willful, and wanton disregard for the Plaintiffs and Class Members, in the construction, operation, inspection, training, repair and maintenance of the Deepwater Horizon and the oil well.

107. The fire, explosion, and resulting oil spill was caused by the concurrent negligence of all Defendants.

108. Upon information and belief, Plaintiffs maintain that the fire, explosion and resulting oil spill were caused by the joint negligence and fault of the Defendants, as evidenced by the following, *inter alia*:

- (a) Failing to properly operate the Deepwater Horizon;
- (b) Operating the Deepwater Horizon in such a manner that a fire and explosion occurred onboard, causing it to sink and resulting in an oil spill;
- (c) Failing to properly inspect the Deepwater Horizon to assure that its equipment and personnel were fit for their intended purpose;
- (d) Acting in a careless and negligent manner without due regard for the safety of others;
- (e) Failing to promulgate, implement and enforce rules and regulations pertaining to the safe operations of the Deepwater Horizon which, if they had been so promulgated, implemented and enforced, would have averted the fire, explosion, sinking and oil spill;
- (f) Operating the Deepwater Horizon with untrained and/or unlicensed personnel;
- (g) Inadequate and negligent training and/or hiring of personnel;
- (h) Failing to take appropriate action to avoid and/or mitigate the accident;
- (i) Negligent implementation of policies and/or procedures to safely conduct offshore operations in the Gulf of Mexico;
- (j) Employing untrained or poorly trained employees and failing to properly train their employees;
- (k) Failing to ascertain that the Deepwater Horizon and its equipment were free from defects and/or in proper working order;
- (l) Failure to timely warn;
- (m) Failure to timely bring the oil release under control;
- (n) Failure to provide appropriate accident preventive equipment;
- (o) Failure to observe and read gauges that would have indicated excessive pressures in the well;
- (p) Failure to react to danger signs;

- (q) Improper installation, maintenance and operation of BOPs or use of defective BOPs;
- (r) Conducting well and well cap cementing operations improperly;
- (s) Acting in a manner that justifies imposition of punitive damages; and
- (t) Such other acts of negligence and omissions as will be shown at the trial of this matter.

109. In addition, and in the alternative, the fire, explosion, sinking and resulting oil spill were caused by defective equipment, including the BOPs, which were in the care, custody and control of Defendants. Defendants knew or should have known of these defects and Defendants are, therefore, liable for them.

110. Defendants knew or should have known that their gross negligence, willful, wanton and/or reckless conduct would foreseeably result in the disaster, causing damage to Plaintiffs and Class Members.

111. The injuries to Plaintiffs and the Class Members were also caused by or aggravated by the fact that Defendants failed to take necessary actions to mitigate the danger associated with their operations.

112. In addition to the grossly negligent actions described above, and in the alternative thereto, the injuries and damages suffered by Plaintiffs and the Class Members were caused by the acts and/or omissions of Defendants that are beyond proof by Plaintiffs and the Class Members, but which were within the knowledge and control of Defendants, there being no other possible conclusion that the fire, explosion, sinking and oil spill resulted from the negligence of Defendants.

113. Furthermore, the fire, explosion, sinking and the resulting oil spill would not have occurred had Defendants exercised the high degree of care imposed on them and Plaintiffs, therefore, please the doctrine of *res ipsa loquitur*.

114. Plaintiffs and the Class Members are entitled to a judgment finding Defendants liable to Plaintiffs and the Class Members for damages suffered as a result of Defendants' negligence – their acts and omissions – and awarding Plaintiffs and the Class Members adequate compensation therefor in amounts determined by the trier of fact.

COUNT II

(Gross Negligence Against All Defendants)

115. Plaintiffs repeat and reallege each and every allegation contained above.

116. Defendants owed a duty to all Plaintiffs and Class Members to exercise reasonable care in the manufacture, maintenance, and operation of the Deepwater Horizon.

117. Defendants had a heightened duty of care to Plaintiffs and all the Class Members because of the great danger associated with deep drilling from floating platforms, and the especially high risk of blowouts during cementing work such as that Deepwater Horizon was performing at the time of the explosion.

118. Defendants breached their legal duty to Plaintiffs and the Class, failed to exercise reasonable care, and acted with reckless, willful, and wanton disregard for the business and livelihood of others, including Plaintiffs and the Class Members, in the negligent manufacture, maintenance, and/or operation of the Deepwater Horizon.

119. Defendants knew or should have known that their wanton or reckless conduct would foreseeably result in a disastrous blowout and oil spill, causing damage to the economic interests of individuals and businesses in the area affected by the oil spill.

120. As a direct and proximate result of Defendants wanton or reckless conduct, which amounts to their gross negligence, Plaintiffs and Class Members have suffered legal injury and damages, in an amount to be proven at trial, including, but not limited to, loss of livelihood, loss of income, and other economic loss.

121. Defendants' wanton or reckless conduct, as described herein, entitles Plaintiffs and Class Members to punitive damages.

COUNT III

(Negligence *Per Se* Against All Defendants)

122. Plaintiffs repeat and reallege each and every allegation contained above.

123. Defendants' conduct with regard to the manufacture, maintenance, and/or operation of drilling operations and oil rigs such as the Deepwater Horizon is governed by numerous state and federal laws, and permits issued under the authority of these laws.

124. These laws and permits create statutory standards that are intended to protect and benefit Plaintiffs and the Class Members.

125. Defendants' violations of these statutory standards constitute negligence *per se* under Louisiana law.

126. Defendants' violations of these statutory standards proximately caused Plaintiffs' and the Class Members' injuries, warranting compensatory and punitive damages.

COUNT IV

(Oil Pollution Act of 1990 Against All Defendants)

127. Plaintiffs repeat and reallege each and every allegation contained above.

128. The Oil Pollution Act imposes liability upon a "responsible party for a ... facility from which oil is discharged ... into or upon navigable waters or adjoining shorelines" for the "damages that result from such incident." 33 U.S.C. § 2702.

129. Section 2702(b)(2)(C) provides for the recovery of “[d]amages for subsistence use of natural resources, which shall be recoverable by any claimant who so uses natural resources which have been injured, destroyed or lost, without regard to the ownership or management of the resources.”

130. The Coast Guard has named BP as the responsible party. The other Defendants have been implicated as well. Therefore, BP and the other Defendants are liable pursuant to Section 2702 for all the damages that result from the oil spill.

131. As a result of the oil spill, Plaintiffs and the Class Members have not been able to use natural resources (air and water, and potentially wetlands and other areas and spaces that have and/or may become contaminated by the spilled oil) for their subsistence, and they are entitled to recover from Defendants for such damages in amounts to be determined by the trier of fact.

132. Section 2702(b)(2)(E) provides for the recovery of “[d]amages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant.”

133. As a result of the oil spill, Plaintiffs and the Class Members have suffered the type of damages that may be recovered pursuant to Section 2702(b)(2)(E), and they demand compensation therefore from Defendants, namely BP, in amounts to be determined by the trier of fact.

COUNT V

(Louisiana Oil Spill Prevention And Response Act Against All Defendants)

134. Plaintiffs repeat and reallege each and every allegation contained above.

135. The Louisiana Oil Spill Prevention and Response Act (“LOSPRA”) imposes liability upon a responsible party for “intentional or unintentional act or omission by which

harmful quantities of oil are spilled, leaked, pumped, poured, emitted, or dumped into or on coastal waters of the state or at any other place where, unless controlled or removed, they may drain, seep, run, or otherwise enter coastal waters of the state.” La. R.S. 30:2454.

136. Pursuant to the LOSPRA, the owner of an oil well discharging petroleum pollutants into a waterway is liable for up to \$350,000,000 in damages arising from that discharge. Furthermore, pursuant to La. R.S. 30:2482, the owner of the well must pay all pollution removal costs and damages, regardless of any defenses that the owner may assert. As a result of the disaster, Plaintiffs and the Class Members have suffered the type of damages that may be recovered pursuant to the LOSPRA, and they demand compensation from Defendants in amounts to be determined by the trier of fact.

WHEREFORE, Plaintiffs prays for relief and judgment, as follows:

A. Determining that this action is a proper class action, certifying Plaintiffs as Class representatives under Rule 23 of the Federal Rules of Civil Procedure, and appointing undersigned counsel as counsel for the Class;

B. Awarding compensatory damages in favor of Plaintiffs and the other Class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants’ wrongdoing, in an amount to be proven at trial, including interest thereon;

C. Awarding punitive damages;

D. Pre-judgment and post-judgment interest at the maximum rate allowable by law;

E. Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

F. Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury on all issues so triable.

DATED: May 28, 2010

Respectfully submitted by,

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