

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

JOE PATTI SEAFOOD COMPANY,
SOUTHERN SEAFOOD OF PACE, INC.,
PREMIER ISLAND MANAGEMENT
GROUP, LLC, ROOKS MARINA, INC.,
PHAN TRAN, BAY BREEZE AQUATICS &
DIVE CENTER, LLC, BENJAMIN MARVIN
NICHOLS, TONY LYNN, LLC,
REEL EAZY CHARTERS, LLC, and
MEGA-BITE INSHORE CHARTERS,
Individually and on behalf of all
others similarly situated,

CASE NO.

JUDGE

MAGISTRATE JUDGE

Plaintiffs,

vs.

TRANSOCEAN, LTD., BP, p.l.c.,
TRANSOCEAN OFFSHORE DEEPWATER
DRILLING, INC.,
TRANSOCEAN DEEPWATER, INC.,
BP PRODUCTS NORTH AMERICA, INC.,
HALIBURTON ENERGY SERVICES, INC.,
CAMERON INTERNATIONAL CORPORATION
f/k/a COOPER CAMERON CORPORATION
(CAMERON) and BP AMERICA, INC.,

Defendants.

CLASS ACTION COMPLAINT

COMES NOW Plaintiffs, JOE PATTI SEAFOOD COMPANY, SOUTHERN
SEAFOOD OF PACE, INC., PREMIER ISLAND MANAGEMENT GROUP, LLC, ROOKS
MARINA, INC. (MARINA OYSTER BARN), PHAN TRAN, BAY BREEZE AQUATICS &

DIVE CENTER, LLC, BENJAMIN MARVIN NICHOLS, TONY LYNN, LLC, REEL EAZY CHARTERS, LLC and MEGA-BITE INSHORE CHARTERS, (hereinafter sometimes referred to as “Plaintiffs”), by and through their undersigned attorneys, on behalf of themselves and all others similarly situated, file this action against Defendants TRANSOCEAN, LTD., BP, p.l.c., TRANSOCEAN, LTD., TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC., TRANSOCEAN DEEPWATER, INC., BP PRODUCTS NORTH AMERICA, INC., HALLIBURTON ENERGY SERVICES, INC., CAMERON INTERNATIONAL CORPORATION f/k/a COOPER CAMERON CORPORATION (CAMERON) AND BP AMERICA, INC., and allege as follows:

INTRODUCTION

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 all others similarly situated as a result of the oil spill that resulted from the explosion and fire aboard, and subsequent sinking of the mobile offshore drilling unit Deepwater Horizon (hereinafter “Deepwater Horizon” or “Oil Rig”) on April 20, 2010, at about 10:00 p.m. central time on the outer Continental Shelf, Mississippi Canyon Block 252. Following the sinking of the Deepwater Horizon, approximately 5,000 barrels per day of crude oil have been leaking from the oil well upon which the Oil Rig was performing completion operations, and from the pipe connected to it (drill stack). The fast moving oil slick, which has grown to 100 miles long by 45 miles wide, and has caused detrimental effects upon the Gulf of Mexico’s and Florida’s marine environments, coastal environments and estuarine areas, which are used by Plaintiffs and all others similarly situated for various activities, including, but not limited to, commercial fishing and other income producing activities.

PARTIES

2. Plaintiff JOE PATTI SEAFOOD COMPANY is a wholesale and retail seafood business located at 524 South B Street, Pensacola, Florida. The business is owned and operated by Frank Patti, President.

3. Plaintiff SOUTHERN SEAFOOD OF PACE, INC. is a wholesale and retail seafood business located at 5703 Hwy. 90, Milton, Florida. The business is owned and operated by Gerarda M. Walker, President.

4. Plaintiff PREMIER ISLAND MANAGEMENT GROUP, LLC, located at 10 Portofino Drive, Pensacola Beach, Florida. The business is a rental management company that rents condominiums on Pensacola Beach, Florida. The Chief Executive Officer is Rob Babcock.

5. Plaintiff ROOKS MARINA, INC. (MARINA OYSTER BARN), located at 505 Bayou Boulevard, Pensacola, Florida. This entity owns and operates a marina and a seafood restaurant business. The business is owned and operated by Dale Rooks.

6. Plaintiff PHAN TRAN, located at 327 Arabian Drive, Pensacola, Florida. Mr. Tran is a commercial shrimper, who operates a commercial shrimping business in and around the Gulf of Mexico in the northwest Florida area.

7. Plaintiff BAY BREEZE AQUATICS & DIVE CENTER, LLC, located at 49 Gulf Breeze Parkway, Gulf Breeze, Florida. The business is a commercial diving and aquatics center owned and operated by Carlos Faught.

8. Plaintiff BENJAMIN MARVIN NICHOLS, 2700 Sea Lark Lane, Milton, Florida. Mr. Nichols is a commercial oysterman who owns an oyster leasehold and harvests said oysters for commercial sale in and around northwest Florida.

9. Plaintiff TONY LYNN, LLC located at A538 Highway 98, Destin, Florida. The business is a commercial fishing business operated out of Destin, Florida in and around the Gulf of Mexico in northwest Florida.

10. Plaintiff REEL EAZY CHARTERS, LLC, located at 1393 Autumn Breeze Circle, Gulf Breeze, Florida. This business is a commercial offshore recreational fishing business. The business is owned and operated by Buddy Franklin Rogers, Jr.

11. Plaintiff MEGA-BITE INSHORE CHARTERS located at 7785 La Grande Drive, Pensacola, Florida. The business is a commercial inshore recreational fishing business. The business is owned and operated by John Rivers.

12. Defendant, TRANSOCEAN, LTD. (“Transocean, Ltd.”) is a foreign corporation doing business in the State of Florida.

13. Defendant, TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC. (“Transocean Offshore”) is a foreign corporation doing business in the State of Florida.

14. Defendant, TRANSOCEAN DEEPWATER, INC. (“Transocean Deepwater”) is a foreign corporation doing business in the State of Florida.

15. Defendant, BP, P.L.C. (“BP”) is a foreign corporation doing business in the State of Florida.

16. Defendant, BP PRODUCTS NORTH AMERICA, INC. (“BP Products”) is a foreign corporation doing business in the State of Florida.

17. Defendant, BP AMERICA, INC. (“BP America”) is a foreign corporation doing business in the State of Florida.

18. Defendant, HALLIBURTON ENERGY SERVICES, INC. (“Halliburton”) is a foreign corporation doing business in the State of Florida.

19. Defendant, CAMERON INTERNATIONAL CORPORATION f/k/a COOPER-CAMERON CORPORATION (“Cameron”) is a foreign corporation doing business in the State of Florida.

JURISDICTION AND VENUE

20. This Court has subject matter jurisdiction, pursuant to: (1) 28 U.S.C. § 1332, as the amount in controversy exceeds \$75,000, exclusive of interest and costs, and because there is complete diversity of the parties; (2) 23 U.S.C. § 1331, because the claims asserted herein arise under the laws of the United States of America, including the laws of the State of Florida 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; and (3) 43 U.S.C. § 1331(1), which extends exclusive Federal jurisdiction to the outer Continental Shelf.

21. Venue in this District is proper pursuant to 28 U.S.C. § 1391(a) as a substantial part of the events and omissions giving rise to the claim occurred, and a substantial part of property that is the subject of this action is situated in this District.

FACTUAL ALLEGATIONS

22. Transocean, Ltd., Transocean Offshore and Transocean Deepwater (collectively “Transocean”) are the owners and/or operators of the Deepwater Horizon, a semi-submersible mobile offshore drilling rig, which was performing completion operations for BP, BP Products and BP America on the outer Continental Shelf, at the site from which the oil spill now originates, on April 20, 2010.

23. BP, BP Products and BP America (collectively “BP”) are the holders of a lease granted by the Minerals Management Service that allows BP to drill for oil and perform oil-

production-related operations at the site of the oil spill, and on April 20, 2010, operated the oil well that is the source of the oil spill.

24. Upon information and belief, Cameron manufactured and/or supplied the Deepwater Horizon's blow-out preventers ("BOP's") that failed to operate upon the explosion, which should have prevented the oil spill. The BOP's were defective because they failed to operate as intended.

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

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

27. 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 the Plaintiffs and all others similarly situated for all their damages.

28. The injuries and damages suffered by Plaintiffs and others similarly situated were caused by Defendants' violations of numerous statutes and regulations, including, but not limited to, statutes and regulations issued by OSHA and the United States Coast Guard, including the requirement to test the sub-sea BOP's at regular intervals.

29. Defendants knew of the dangers associated with deep water drilling and failed to take appropriate measures to prevent damage to Plaintiffs, all others similarly situated, Florida's and the Gulf of Mexico's marine and coastal environments and estuarine areas, and the Coastal Zone, where Plaintiffs and others similarly situated work and earn a living.

30. Upon information and belief, Defendants intentionally and recklessly chose not to install the appropriate safety measures on the Deepwater Horizon that, if installed, would have prevented or minimized the amount of oil spilled into the Gulf of Mexico.

31. The spilled oil does not simply evaporate from the water's surface and is causing dangerous environmental contamination of the Gulf of Mexico and its shorelines, threatening Florida's sensitive marine, wetland and estuarine areas.

32. The oil spill and the contamination have caused and will continue to cause loss of revenue to persons (and businesses) who are being prevented from using the Gulf of Mexico and Florida's Coastal Zone for diverse activities.

33. There are many other potential harmful impacts from the oil spill that are not currently known, and Plaintiffs reserve the right to amend this Complaint once additional information becomes available.

CLASS ACTION ALLEGATIONS

34. Plaintiffs bring this action on behalf of themselves and all others similarly situated, as members of the proposed Plaintiffs' class. The proposed class is initially defined as:

All Florida citizens who live or work in, or derive income from, the Florida "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 mobile offshore drilling rig and the oil spill resulting therefrom. Excluded from the class are the Defendants in this action, any entity(s) in which the Defendants have a controlling interest, any employees, officers, or directors of Defendants, and the legal representatives, heirs, successors and assigns of Defendants.

35. Existence and Predominance of Common Questions of Fact and Law – Fed.R. Civ. P. 23(a)(2): Common questions of fact and law predominate over the questions affecting

only individual class members. These common factual questions and legal questions include, but are not limited to, the following:

- a. Whether, and to what extent, Defendants caused and/or contributed to the fire, explosion and continuous oil spill.
- b. Whether Defendants' actions were negligent.
- c. Whether the fire, explosion and oil spill have caused environmental or other damage.
- d. Whether, and to what extent, Defendants engaged in abnormally dangerous activities for which they are strictly liable.
- e. Whether Defendants negligently maintained and/or operated the mobile offshore drilling unit Deepwater Horizon.
- f. Whether Defendants negligently failed to take reasonable measures to contain the oil spill.
- g. Whether Defendants collectively and/or individually owed a duty to Plaintiffs and the proposed class they seek to represent to maintain the Deepwater Horizon and/or to conduct drilling operations in a manner so as to prevent the discharge and/or substantial threat of discharge of oil into or upon the Gulf of Mexico and/or the shores of Florida.
- h. Whether Defendants are strictly liable to Plaintiffs and all others similarly situated.
- i. Whether Plaintiffs and proposed class members were injured by the Defendants' acts or omissions, and, if so, the appropriate class-wide measures of damages.

36. Typicality – Fed. R. Civ. P. 23(a)(3): Plaintiffs claims are typical of the claims of the proposed class because Defendants engaged in a common course of conduct that gave rise to the claims of Plaintiffs and all proposed class members and the claims are based on the same legal theories.

37. Numerosity – Fed. R. Civ. P. 23(a)(1): The members of the propose class are so numerous that separate joinder of each member is impracticable. Pursuant to Local Rule 23.1, Plaintiffs estimate the approximate size of the class to be in excess of one thousand. The disposition of the claims asserted herein through this class action will be more efficient and will benefit the parties and the Court.

38. Adequacy – Fed. R. Civ. P. 23(a)(4): Plaintiffs are adequate representatives of the proposed class because their interests do not conflict with the interests of the members of the class they seek to represent. The Plaintiffs adequately and truly represent the interests of the absent class members. Plaintiffs and all members of the class they seek to represent have been damaged by reason of the Defendants' conduct. The interests of Plaintiffs are coextensive with the interests of the proposed class members, with common rights of recovery based on the same essential facts. Plaintiffs have retained counsel competent and experienced in complex environmental class action litigation and Plaintiffs intend to pursue this action vigorously. Plaintiffs and their counsel will fairly and adequately protect the interests of the member of the proposed class.

39. This action has been brought and may be properly maintained pursuant to the provisions of Fed. R. Civ. P. 23(b)(1) and 23(b)(3) and case law there under.

40. Class action treatment is a superior method for the fair and efficient adjudication of the controversy, in that, among other things, there is no interest by members of the class in

individually controlling the prosecution of separate actions and the expense of prosecuting individual claims is prohibitive. It is desirable to concentrate the litigation of the claims made herein in a single proceeding in order to provide claimants with a forum in which to seek redress. Whatever difficulties may exist in the management of the class action will be greatly outweighed by the class action procedure, including but not limited to, providing claimants with a method for the redress of claims that may not otherwise warrant individual litigation. The questions of law or fact common to the members of the proposed class predominate over any questions affecting only individual proposed class members.

41. The prosecution of separate claims by individual members of the class creates a risk that adjudication concerning individual members of the class would, as a practical matter, be dispositive of, or substantially impair or impede, the ability of other members of the class not parties to this action to protect their interests. If Plaintiffs are forced to pursue this action in an individual capacity, the court is likely to make legal rulings that will be dispositive of the claims of members of the proposed class not parties herein. Additionally, if the Plaintiffs prevail, the relief they obtain may impair or impede the ability of Defendants to provide relief to members of the proposed class not parties herein.

COUNT I

NEGLIGENCE

42. Plaintiffs incorporate herein by reference the allegations set forth above as if fully restated herein.

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

44. Defendants owed a duty of reasonable care to Plaintiffs in the operation and maintenance of the Deepwater Horizon.

45. Defendants breached this duty by:

- 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 a continuous oil spill.
- c. Failing to properly inspect the Deepwater Horizon to assure that its equipment was fit for its intended purposes.
- 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 unlicensed personnel.
- g. Inadequate and negligent training and hiring of personnel.
- h. Failing to take appropriate action to avoid or mitigate the accident.
- i. Negligent implementation of policies and 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 discharge of oil under control.
- n. Failure to provide appropriate accident prevention equipment.
- o. Failure to observe and read gauges that would have indicated excessive pressures in the well.
- p. Failure to react to signs of danger.
- q. Providing BOP's that did not work as intended.
- r. Conducting well and well cap cementing operations improperly.
- s. Acting in a manner that justifies punitive damages.
- t. Such other acts of negligence and omissions as will be shown at the trial of this matter; all of which are in violation of the laws of Florida and Federal law applicable to the outer Continental Shelf.

46. In addition, and in the alternative, the fire, explosion, sinking and resulting oil spill were caused by defective equipment, including but not limited to BOP's, which were in the care, custody and control of Defendants. Defendants knew or should have known of these defects and are, therefore, liable for them.

47. In the alternative, Plaintiffs reallege each and every allegation set forth above, as though set forth herein aver the applicability of the doctrine of res ipsa loquitur.

48. Plaintiffs are entitled to a judgment finding Defendants liable for damages suffered as a result of Defendants' negligence and/or wantonness and awarding Plaintiffs adequate compensation therefore in amounts determined by the trier of fact.

COUNT II

STRICT LIABILITY FOR ABNORMALLY DANGEROUS ACTIVITY

49. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein and further alleges as follows:

50. Defendants, as the owners and/or operators of the Deepwater Horizon, engaged in abnormally dangerous activities by the manner in which they maintained and operated the Deepwater Horizon. Defendants' activities resulted in the intentional, incidental or accidental fire, explosion, sinking and resulting oil spill from the Deepwater Horizon mobile offshore drilling unit, which (a) created a high degree of risk of harm to others, and particularly to Plaintiffs; (b) created a risk involving a likelihood that the harm threatened by Defendants' activities would be great; (c) created a risk of harm that could not be eliminated by the exercise of reasonable care; (d) were not a matter of common usage; (e) were inappropriate to the place that they were being carried on, in that they constituted a non-natural use of Defendants' oil lease which imposed an unusual and extraordinary risk of harm to Plaintiffs'.

51. As a direct and proximate result of Defendants' conduct in engaging in the abnormally dangerous activities alleged above, substantial amounts of crude oil have been released and continue to be released from the well leased by BP. The harm sustained by Plaintiffs is exactly the kind of harm posed, the possibility of which made Defendants' activities abnormally dangerous.

52. Plaintiffs are entitled to a judgment finding Defendants liable for damages, including punitive damages, suffered as a result of Defendants' abnormally dangerous activities and awarding Plaintiffs adequate compensation therefore in amounts determined by the trier of fact.

COUNT III

STRICT PRODUCTS LIABILITY FOR MANUFACTURING DEFECT

53. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein and further alleges as follows:

54. Defendant Cameron manufactured and/or supplied the Deepwater Horizon's BOP's.

55. Defendant Cameron's BOP's failed to operate properly or at all, at the time of or following the explosion, and this failure caused or contributed to the oil spill.

56. Defendant Cameron's BOP's were defective because they failed to operate as intended.

57. As a result of the BOP's product defect, oil was released from the Deepwater Horizon mobile offshore drilling unit thereby causing injury to Plaintiffs and the proposed class.

58. Defendant Cameron's BOP's were in a defective condition and unreasonably dangerous to Plaintiffs when the BOP's left Defendant Cameron's control.

59. At all times, Defendant Cameron's BOP's were used in the manner intended.

60. By reason of the foregoing, Plaintiffs have incurred damages in an amount to be determined at trial.

61. By reason of the foregoing, Plaintiffs are entitled to compensatory and punitive damages.

COUNT IV

STRICT LIABILITY PURSUANT TO FLORIDA STATUTE § 376.313

62. Plaintiffs incorporate herein by reference the allegations set forth above as if fully restated herein.

63. At all relevant times, Defendants owned, operated and/or maintained the mobile offshore drilling unit Deepwater Horizon which caught on fire and exploded on April 20, 2010.

Following the explosion and fire, the Deepwater Horizon sunk resulting in the continuous discharge of crude oil from the well upon which the rig had been performing completion operations.

64. At all relevant times, Defendants had a statutory duty to Plaintiffs and class members to maintain and operate the Deepwater Horizon so as to not create or continue hazardous conditions due to the discharge of pollutants as defined by Florida Statute §§ 376.301(10), 376.301(11) and 376.301(13).

65. At all relevant times, Defendants breached their statutory duty to the Plaintiffs and class members by discharging, or allowing to be discharged, crude oil into and upon the Gulf of Mexico and allowing the massive oil spill to migrate into the Florida's marine environments, coastal environments and estuarine areas which are used by Plaintiffs for different activities, including but not limited to, commercial fishing, and other income generating endeavors in violation of Florida Statutes 376.30 to 376.317, and Defendants are strictly liable to Plaintiffs and class members under Sec. 376.313(3), Florida Statutes, which provides:

...nothing contained in ss. 376.30-376.317 prohibits any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.317. Nothing in this chapter shall prohibit or diminish a party's right to contribution from other parties jointly or severally liable for a prohibited discharge of pollutants or hazardous substances or other pollution conditions. Except as otherwise provided in subsection (4) or subsection (5), in any such suit, it is not necessary for such person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it has occurred.

66. As the direct and proximate result of Defendants' breach of statutory duty to the Plaintiffs, the oil spill originating from the Deepwater Horizon has resulted in detrimental affects upon the Gulf of Mexico and Florida's marine environments, coastal environments and estuarine areas which are used by Plaintiffs for various income generating endeavors.

67. WHEREFORE, Plaintiffs demand judgment against Defendants for damages, including punitive damages, together with costs of suit, and such further relief as the court deems proper. Plaintiffs demand trial by jury on all issues so triable.

DATED: April 30, 2010

RESPECTFULLY SUBMITTED BY:

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