

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: OIL SPILL BY THE OIL RIG
"DEEPWATER HORIZON" IN THE
GULF OF MEXICO ON APRIL 20, 2010

MDL No.: 2179

Section "J"

Judge Barbier

This Document Relates to:

2:12-cv-02048-CJB-SS

2:12-cv-02155-CJB-SS

2:12-cv-00988-CJB-SS

2:12-cv-01295-CJB-SS

2:12-cv-0038-CJB-SS

2:12-cv-01483

2:12-cv-01484

12-cv-2194

2:12-cv-01485 and

Unfiled Economic and Property Damages

Class Members

Unfiled Medical Benefits Class Members

Magistrate Judge Shushan

DECLARATION OF MICHAEL ROBICHAUX, MD

1. My Name is Michael Robichaux, MD. I am a licensed doctor in the State of Louisiana and I am board certified in Otolaryngology. My resume is attached. I have not been retained as an expert in this case. I am an independent investigator of the medical consequences of exposure to the BP oil/dispersant mixture. I have been interviewed about this issue on numerous occasions by local and national media.
2. Several days ago I received a copy of a document titled "Declaration of Robin L. Greenwald." This document was submitted to you and to Magistrate Judge Shushan on August 13, 2012. In her document, Ms. Greenwald describes herself as being a member of the "Plaintiff Steering Committee" and a negotiator for the "medical benefits class settlement." She provided an 8 page discussion of her role and that of Matthew Lundy in their negotiations with BP on behalf of the citizens of Louisiana who were entitled to compensation for illnesses they incurred from exposure to chemicals from the BP disaster.
3. In reviewing Ms. Greenwald's "Declaration," I was rather surprised by some of her comments and observations as they differ considerably from my experiences in many of the same areas. Before I discuss my exceptions with the document submitted by Ms. Greenwald, I would like to give a short background on my recent association with this issue.

4. On July 10, my wife, Brenda, and I accompanied Shanna Divine and her father, Tom Devine, to meet with representatives of BP at BP's headquarter building in Houston. Shanna and Tom are individuals who have been working in our community and who represent an organization called the "Government Accountability Project. (GAP)" This organization has worked in our area for several years and is preparing a report discussing its' experiences in our community and outlining problems that it has observed in various areas of the Deepwater Horizon crisis.
5. The primary purpose of the Houston meeting was to request that BP discontinue the use of Corexit as a dispersant, as we felt that there was a distinct possibility, if not probability, that this chemical was responsible for the illnesses we had been encountering.
6. There were 13 individuals representing BP at the meeting and a very orderly and considerate exchange of opinions was undertaken. I explained to the assembled group that I had grown up on the Louisiana coast and in 67 years of swimming, fishing and walking on beaches, I could not recall a single instance in which anyone became ill from these chemicals. While I realize that the quantity of oil released in the DWH crisis was unprecedented, the duration of exposure of some very ill individuals was extremely brief and the consequences of their exposure was quite severe.
7. There was something new and different in the Deepwater Horizon experience and the dispersant Corexit had become the leading suspect in causing many of the problems we had been encountering.
8. Our first request of BP was that they provide us with a commitment that they would no longer use this dispersant in any future spills.
9. Their position was that as long as Corexit was approved by U.S. regulations, they had the right to use the chemical in responding to an oil spill.
10. The second request we wished for BP to consider was the following; If BP refused to discontinue using Corexit as a dispersant, would they agree to notify the public before Corexit or any other dispersants were used.
11. BP America Vice President, Mr. Keller, stated that he would bring our request for public notification to BP for consideration. Although I was not prepared to speak on the subject, the representatives of BP began the meeting by discussing the medical aspects of the agreement with the Plaintiff Steering Committee. There were two individuals at the meeting who stated that they represented BP in shaping the agreement with the PSC. I had read enough of the agreement to know that, in my opinion, the PSC had done a poor job of representing the victims of the spill and I brought up a few examples to the assembled group.
12. The first point involved the creation of Zones that would include people who were eligible for compensation by BP. From my perspective, the zone designation was somewhat difficult to interpret and probably unfair to the citizens of the State of Louisiana.

13. The second concern I expressed had to do with the definition of "Chronic Conditions," as defined in the agreement between the PSC and BP.
14. For an illness to be defined as chronic it had to qualify under the following criteria:
(The following is taken from a published overview of the Medical Settlement between BP and the PSC)

Chronic Conditions:

Ocular: Sequelae; damage to cornea
Respiratory: Chronic rhinosinusitis, OR
 Two of the following – nasal obstruction; facial
 Pressure; decreased sense of smell
Dermal: Contact dermatitis
 Eczematous reaction

15. Having taken histories and performed physicals on approximately 150 patients who were most likely rendered ill by Deepwater Horizon chemical exposures, I feel I have a unique and comprehensive perspective of these problems and the following comments are my reasons for concern. I will discuss each of the "Conditions" cited above from my perspective.
16. **Sequelae; damage to cornea**
I have not seen a single person with damage to his or her cornea.

Chronic rhinosinusitis,– nasal obstruction; facial Pressure; decreased sense of smell
Although this condition can be caused by toxic exposure, this has not been a common problem for many of the BP oil spill exposed patients who I have treated.

Contact dermatitis and Eczematous reaction
Although a history of "rashes" has been common in many of our ill patients, skin problems have not been a significant disorder for the vast majority of the people I have examined and treated.

17. With the myriad of **major** symptoms of a chronic nature being experienced by victims of the spill, why would the PSC choose these rather obscure or less significant conditions to qualify as Chronic Conditions?
18. Although I did not discuss the following issue with the BP representatives (because I did not have the appropriate document available) the next subject is definitely of significance, as it is part of the BP-PSC settlement.
19. **"What are the levels of proof required for chronic conditions?"**
"Claimants that have a specified chronic physical condition (B1) must submit: