

**MINUTE ENTRY
FALLON, J.
MARCH 2, 2006**

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

PATRICK JOSEPH TURNER, ET AL. * CIVIL ACTION
VERSUS * NO. 05-4206
MURPHY OIL USA, INC. * CONSOLIDATED CASE
SECTION "L" (2)

THIS DOCUMENT RELATES TO ALL CASES

A monthly status conference was held on this date in the Courtroom of Judge Eldon E. Fallon. In attendance on behalf of Plaintiffs were Sidney Torres, Roberta Burns, Gerald Meunier, Ronnie Penton, Joseph Bruno, Richard Arsenault, Michael Stag, Anthony Irpino, Donni Young, Jean Paul Overton, Dawn Barrios, Gregory DiLeo, Val Exnicios, Sal Gutierrez, Mary Hand, John Futrell, Eric Williams, E. Carroll Rogers, Paul Hesse, Darryl Becnel, Robert Becnel, Brock Dupre, Linda Nelson, and Hugh Lambert. In attendance for Defendants were George Frilot, Kerry Miller, Danny Dysart, and A.J. Krouse. Also in attendance was James M. White of XW Insurance. At the conference, counsel reported to the Court on the topics set forth in the Joint Agenda of Plaintiffs' and Defendant's Liaison Counsel.

1. Trial Plan

Liaison counsel have submitted their proposed trial plans to the Court, and the Court will issue an Order in the near future that will establish the Trial Plan for the trial. In essence the Court will sever the questions of liability from damages and try liability for the whole class during Phase One. The damage phase will follow, if appropriate.

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Liaison counsel will meet next week to develop a joint discovery plan and case management order for Phase One. If they cannot agree on a joint plan, they shall submit separate plans for approval by the Court. Counsel indicated that they desire to include dates for motion practice prior to trial, in particular, for motions in limine, motions for summary judgment, and *Daubert* motions. Defense counsel indicated that they want to present a comparative fault defense for the potential liability of third parties in Phase One, and that the Trial Plan should reflect that.

2. Class Area Testing and Sampling Plan

Liaison counsel reported that the experts for both Plaintiffs and Defendant will meet on March 8 to discuss the Plaintiffs' proposed changes to Defendant's class area testing and sampling protocol. Liaison counsel shall report to the Court after this meeting.

3. Class Notice Dissemination

Plaintiffs' liaison counsel reported to the Court that they are working with Defendant and with their expert to compile a mailing list for the Court-approved Class Notice. Liaison counsel further reported that the notice is out in the community, and that they are receiving numerous opt-outs. Liaison counsel will begin sharing information on opt-outs and will report to the Court periodically with a list of names of those who have opted-out.

4. Murphy Tank and Plant Testing and Sampling Plan

Counsel for Plaintiffs and Defendant have been working over the last two weeks to resolve issues regarding discovery of Tank 250-2, the tank that allegedly leaked during the storm. In an Order signed on February 21, 2006, the Court has approved a protocol for cleaning and testing of the tank. However, Plaintiffs believe that discovery of the interior of the tank is

necessary prior to any shoring up of the floating roof or cleaning of the tank. Defendant is unsure if this discovery can be done safely, given the danger of the roof collapsing and the possibility of explosive gases inside. IT IS ORDERED that counsel shall report to the Court within twenty-four hours on the progress of negotiations on this issue. If they cannot reach an agreement, the Court shall schedule an evidentiary hearing within the next few days to take evidence and rule upon whether Plaintiffs' discovery may be performed safely at this stage.

5. Motion to Rescind Protective Order Or Alternatively Motion to Amend Protective Order

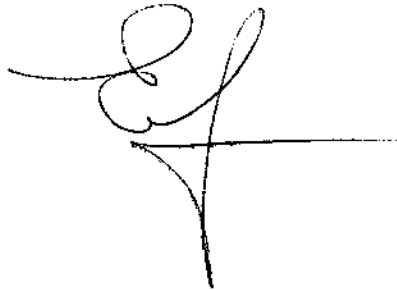
At the monthly status conference, the Court heard oral argument upon the Motion to Rescind Protective Order Or Alternatively Motion to Amend Protective Order in *Tammy Bouvier, et al. v. Murphy Oil USA, Inc.*, Case Number 06-557. IT IS ORDERED that the Motion is hereby DENIED. It is unclear at this time whether the plaintiffs listed in this lawsuit have followed the Court-approved procedure for opting-out of this litigation. Until they have opted-out, the Court must presume the plaintiffs within the class area are represented by liaison counsel.

Although the Bouvier plaintiffs argue that they received no notice of the implementation of a testing protocol and of other pretrial discovery, the Court finds this argument to be unavailing. The Court's proceedings are documented in Minute Entries which are found on the docket sheet for this case and are available online on the Court's Web site. These Minute Entries clearly reflect that liaison counsel have worked for the past few months to develop jointly the protocols that the Court has approved. The Court declines to disturb the work that has been undertaken thus far for pretrial discovery.

The Court also noted that the individual cases may pose a problem for case management. Rather than de-consolidating these cases and having them proceed with discovery separately, the Court believes that consolidation would best serve the interest of all parties. This consolidation would be for discovery purposes only; trials of these cases would proceed separately. However, because these cases are consolidated, the Court shall issue a pretrial order shortly that will instruct individual plaintiffs regarding the requirements to share in the class Plaintiffs' pretrial discovery efforts. Individual plaintiffs will have to pay an assessment in order to gain any common benefit work product. If the number of individual suits increases, it may be necessary to appoint a liaison counsel for these cases.

6. Next Monthly Status Conference

The next monthly status conference shall be held on Thursday, April 6, 2006 at 9:00 a.m. Liaison counsel are to meet at 8:30 a.m. in Chambers prior to the conference.

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