

PROCEEDINGS

(December 20, 2005)

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3 **THE DEPUTY CLERK:** Everyone rise.

4 **THE COURT:** Be seated, please. Good morning, Ladies
5 and Gentlemen. Call the case.

6 **THE DEPUTY CLERK:** 05-4206, Patrick Joseph Turner,
7 et al versus Murphy Oil USA, Inc.

8 **THE COURT:** Liaison counsel make their appearance for
9 the record, please.

10 **MR. TORRES:** Your Honor, Sidney Torres on behalf of
11 the plaintiffs.

12 **MR. MILLER:** Kerry Miller on behalf of Murphy Oil,
13 Your Honor.

14 **THE COURT:** This is our monthly status conference. I
15 met with liaison counsel earlier and they have presented me
16 with an agenda. There are several items on the agenda. The
17 first is discovery issues. I'll hear from the parties as to
18 that.

19 **MR. TORRES:** Yes, Your Honor. The defendant was to
20 produce the name of the person who would be presented for the
21 30(b)(6). I think they are going to do that within the next
22 three days. The discovery is progressing along. We have
23 presented to the defendant the class reps. I think the last
24 class rep. will be taken tomorrow. There are a number of named
25 plaintiffs whose depositions will be taken. Plaintiffs'

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1 experts' depositions have been scheduled. We are working with
2 the defendant on that. The defendant is also giving us the
3 dates and times within the next week or two to take the
4 depositions of their experts. Also, the digital photographs
5 will be presented to us this Friday; is that correct?

6 **MR. MILLER:** Correct, Your Honor.

7 **THE COURT:** Anything from the defendant on discovery?

8 **MR. MILLER:** No, I think that's it, other than to
9 note the agreement we reached in chambers that we would not be
10 submitting a Pretrial Order, per se. What we are going to do,
11 I think, is we are going to exchange exhibit lists on January 6
12 and then follow the schedule that's in place for all other
13 deadlines.

14 **THE COURT:** With regard to that, I discussed with
15 counsel in chambers that a Pretrial Order may not be useful in
16 this particular case. I'm mainly interested in each counsel
17 knowing what the other counsel is going to present during
18 hearings so that no one is surprised and they are able to be
19 prepared. Counsel advised me they have exchanged witness lists
20 and what they need to do at this point is exchange exhibits so
21 that part will be complied with and a statement of the facts
22 and issues, but that can come in through their memorandum. So
23 we are going to tailor this Pretrial Order, as it were, for the
24 needs of this particular case.

25 The second issue on the agenda was discussions

1 of settlement with someone who was represented. I'm convinced
2 that the defendant didn't recognize at the outset that they
3 were dealing with someone who was represented. As I mentioned
4 to counsel, we are going to have some slippage. We have so
5 many people involved in this case that sometimes, through no
6 one's fault, there are going to be discussions with someone who
7 is represented. You have to be heads up. Plaintiffs ought to
8 advise the defendant of all of the class reps and all of the
9 represented people, and the defendant ought not to discuss
10 settlement or contact represented people. We do the best we
11 can with trying to stop any slippage, but this seems to be one
12 that got through the cracks. I understand that the parties
13 have attempted to correct that situation and will continue to
14 do so.

15 There's a third item on the agenda, notice of
16 objection to discovery propounded by Murphy Oil. Do you want
17 to speak to that?

18 **MR. TORRES:** Yes. We had put that on the agenda
19 because of the short time period we had here. We had gone
20 forward and offered up a large number of named plaintiffs that
21 defendant had requested that we produce. We just wanted to
22 bring to the Court's attention we didn't want to in any way
23 concede that this was relevant. We pretty much have
24 accomplished the taking of those depositions, but we just
25 wanted for the record to let the Court know that we were not

1 conceding that this was relevant.

2 **THE COURT:** Let's both sides keep their eye on the
3 ball. We are at the certification aspect of the case and not
4 the liability or damage aspect of the case, so that's where the
5 discovery ought to be focused at this point. I'm not saying
6 that later on discovery ought not to consume other issues, but
7 the issue the Court is concerned with is the issue of
8 certification, so let's keep your eye on the ball at that
9 level.

10 The next item was item 4. As I mentioned, there's
11 some use of the public media in the St. Bernard Parish
12 government web site to promote and solicit participation in the
13 settlement program without disclosure. The Court issued an
14 order requiring certain disclosures to be made. When something
15 like this is brought to my attention, it's of concern to the
16 Court. I told counsel for each side I'm going to set a rule to
17 show cause why Murphy should not be held in contempt of Court.
18 I will set it for this Friday at 11:00. I also ask counsel to
19 discuss this matter and see whether or not there's some
20 misunderstanding on either side and whether it can be
21 corrected; and, if so, advise the Court and then I will take it
22 off of the calendar. I have to act on matters that are brought
23 to my attention that are potentially abusive conduct.

24 **MR. TORRES:** Your Honor, I have had a conversation
25 with Mr. Frihot and Mr. Miller and they have stated they will

1 take a look at the ad we are talking about and take the
2 appropriate action, so we are satisfied with that.

3 **MR. FRILOT:** For the record, Your Honor, it's my
4 understanding that WDSU ran this tape under their news without
5 our knowledge and certainly not at our request. It's not paid
6 advertisement. We will ask WDSU not to repeat that
7 performance, but it was not generated by our instance.

8 **THE COURT:** Then I will take that off of the calendar
9 for Friday at 11:00. Either side, if there's any question of a
10 violation of my order, bring it to my attention and the Court
11 will act on it.

12 **MR. TORRES:** If Your Honor please, I understand it
13 may be in Baton Rouge, also.

14 **MR. MILLER:** Do you know what media outlet?

15 **MR. TORRES:** We'll get together with them.

16 **THE COURT:** Mr. Dumas.

17 **MR. DUMAS:** Yes, sir. Your Honor, I sent a copy of
18 the tape to Sidney. It's WAFB Television. They had a story on
19 it. They called me for an interview and I refused to talk.

20 **THE COURT:** Let's get with counsel for defendant and
21 give them the information so that can be handled. The
22 defendant has also brought to my attention a certain web site
23 that is entitled "Murphy Oil Spill Web Site." It's not their
24 web site. It's a web site promoted by the plaintiffs. They
25 are concerned about some misinformation. Also, they have

1 brought to the Court's attention postings on NOLA.com by
2 plaintiffs' counsel, which they are also concerned about as
3 being misrepresentative of the facts, and some statement by an
4 attorney in a letter December 6, 2005, which they feel is not
5 appropriate and not consistent with the facts.

6 Again, these matters need to be discussed with
7 counsel first. If after discussing the matter liaison counsel
8 cannot reach an agreement, then they need to bring it to the
9 Court's attention. I have directed counsel to discuss these
10 three matters. If they can't reach some agreement that's
11 satisfactory to the defendant, the defendant needs to get that
12 information to the Court and the Court will act on it. I don't
13 want any misinformation from either side. Both sides need to
14 be heads up on that.

15 Another item on the agenda was Murphy's
16 publishing an ad about a voluntary settlement program. Is that
17 something either the defendant or the plaintiffs put on the
18 agenda?

19 **MR. MILLER:** Yes. I had put that on the agenda in
20 response to some of the other media issues that we had talked
21 about.

22 **THE COURT:** There was some discussion at the liaison
23 counsel meeting this morning that at least Murphy is discussing
24 with the Court and opposing counsel whether or not they could
25 or should post some information on their web site or

1 information to the media correcting what they feel have been
2 misstatements. It's hard for me to deal with it in a vacuum,
3 but my concern is that that's generally not the last word.
4 When Murphy seeks to correct misinformation, then the
5 plaintiffs seek to correct the corrected misinformation. We go
6 on and on, and instead of focusing on the issues before this
7 Court somehow or another the focus is outside of what's going
8 on in this Court. Before we do that, I would expect the
9 parties to discuss it with the Court and discuss it with
10 counsel first.

11 Any other item on the agenda before we move into
12 the motions before the Court? Anything that either counsel
13 want to bring up or anyone in the audience wishes to discuss?

14 **MR. MILLER:** Not from the Murphy side, Your Honor.

15 **MR. TORRES:** Not from plaintiffs' side, Your Honor.
16 Your Honor, some of the plaintiffs' attorneys are leaving
17 because they have a deposition to attend.

18 **THE COURT:** I understand. The next meeting will be
19 on January 31, 2006. I'll meet with liaison counsel and any
20 members of the committees that liaison counsel feels
21 appropriate on January 31 at 8:30. Following that meeting, we
22 will have with the general meeting at 9:00 here in open court.

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