

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

COTTON BAYOU MARINA, INC.	)	
d/b/a TACKY JACK'S RESTAURANT, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Civil Action No. 1:10-cv-00243-WS-C
	)	
BP, plc, et al.,	)	
	)	
Defendants.	)	

**HALLIBURTON ENERGY SERVICES, INC.'S  
RENEWED MOTION TO STAY PROCEEDINGS PENDING  
TRANSFER BY THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

Defendant, Halliburton Energy Services, Inc. ("HESI"), respectfully moves this Court to stay this case pending a ruling by the Judicial Panel on Multidistrict Litigation in MDL-2179, *In re: Oil Spill by the Oil Rig ("Deepwater Horizon") in the Gulf of Mexico, on April 20, 2010*. In support of this Motion, HESI submits the following:

On May 17, 2010, HESI filed its Motion to Stay Proceedings Pending Transfer by the Judicial Panel on Multidistrict Litigation ("Motion to Stay"). [Rec. Doc. 7]. Shortly thereafter, BP America, Inc. and BP Products North America, Inc. (together "BP ") joined HESI's Motion to Stay. [Rec. Doc. 13]. The Court denied HESI's Motion to Stay "without prejudice to the defendants' ability to re-file same after responsive pleadings have been filed." [Rec. Doc. 38].

In addition to the grounds set forth in HESI's Motion to Stay, which HESI expressly renews at this time, there are additional reasons why the Court should stay this case. HESI, concurrently with this Motion, filed its responsive pleading seeking dismissal of plaintiff's Complaint pursuant to Rule 12 of the Federal Rules of Civil Procedure. HESI's Motion to

Dismiss requests an order dismissing Plaintiff's complaint based, in part, on the preemptory effect of the Oil Pollution Act of 1990, 33 U.S.C. § 2701, *et seq.* ("OPA"), and its mandatory claims presentment requirements, which plaintiff failed to satisfy. HESI contemplates raising this threshold legal issue in numerous other cases similar to this one, most of which have been filed in other judicial districts and many of which are currently stayed. If adjudication of this issue is not stayed in all cases, however, numerous courts could potentially rule—perhaps inconsistently—on the very same issue. Thus, the interests of judicial economy clearly weigh in favor of a stay.

To the extent there is concern that staying the case would prejudice plaintiff's ability to conduct preliminary discovery or potentially impact defendants' obligations to preserve evidence, such concerns are unfounded. Preliminary discovery will soon be made available to plaintiffs. On July 6, 2010, HESI established an online document repository that plaintiffs may access after signing a mandatory confidentiality and non-disclosure agreement, pursuant to court order. Order entered in *Roshto, et al v. Transocean, LTD., et al*, No. 2:10-cv-01324 (E.D. La.), a true and correct copy of which is attached hereto as Exhibit A. Therefore, staying the proceeding pending a transfer by the MDL Panel will not prevent plaintiff from obtaining preliminary discovery during the interim.

Moreover, while defendants are already obligated to preserve evidence under the Federal Rules of Civil Procedure, defendants are also subject to certain protective orders expressly requiring them to preserve and maintain evidence. *See, e.g.*, Protective Order entered in *Cooper et al. v. BP, p.l.c., et al.*, No. 10-cv-1229 (E.D. La.), a true and correct copy of which is attached hereto as Exhibit B; Protective Order entered in *Stone et al. v. BP, p.l.c., et al.*, No. 2010-25245

(Harris County, Texas), a true and correct copy of which is attached hereto as Exhibit C. Thus, granting a stay will not disturb defendants' continuing obligation to preserve evidence.

Finally, HESI respectfully shows the Court that many other courts have granted stays on identical Motions. *See* Chart of Stays Granted in Horizon Litigation, attached hereto as Exhibit D. Accordingly, granting the Motion for Stay will prevent inconsistent rulings and preserve judicial economy.

**WHEREFORE**, Halliburton Energy Services, Inc. respectfully requests that the Court grant the Motion for Stay and for all other relief consistent therewith.

Respectfully submitted this 6<sup>th</sup> day of July, 2010.

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**CERTIFICATE OF SERVICE**

I hereby certify that I have on this 6<sup>th</sup> day of July, 2010, a copy of the foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record registered to receive electronic service by operation of the court's electronic filing system. I also certify that I have mailed this filing by United States Postal Service to all counsel of record who are not registered to receive electronic service by operation of the court's electronic filing system.

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