

**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. 10-cv-00243-WS-C
)	
BP, plc, et al.,)	
)	
Defendants.)	

**HALLIBURTON ENERGY SERVICES, INC.’S REPLY IN SUPPORT OF
ITS RENEWED MOTION TO STAY PROCEEDINGS PENDING
TRANSFER BY THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

Defendant, Halliburton Energy Services, Inc. (“HESI”), respectfully submits this Reply¹ in response to Plaintiffs’ Opposition to HESI’s Motion for Stay of Proceedings (the “Opposition”). In support of its Motion to Stay, HESI states:

INTRODUCTION

This case is one of almost 300 virtually identical individual and class actions pending in various state and federal courts in the southeastern United States (the “Actions”). Each Action arises out of an explosion and fire onboard Transocean’s Deepwater Horizon drilling rig on April 20, 2010, and the ensuing oil spill from the BP well located on Mississippi Canyon Block 252 (the “Deepwater Horizon Incident”).

On May 17, 2010, HESI filed its Motion to Stay Proceedings (the “Motion to Stay”). [Doc. 7]. On June 2, 2010, this Court denied HESI’s Motion to Stay without prejudice to HESI’s

¹ In filing this Reply, HESI reserves all defenses, including its rights to object to jurisdiction, service of process, and any other issues in this matter, and all other defenses available pursuant to Federal Rule of Civil Procedure 12(b), including lack of subject matter jurisdiction, lack of personal jurisdiction, improper venue, insufficient process, insufficient service of process, failure to state a claim upon which relief can be granted, and failure to join necessary parties. Without waiving such rights, HESI files this motion in the interests of judicial efficiency and economy.

ability to re-file its Motion to Stay after responsive pleadings have been filed. [Doc. 38]. On July 6, 2010, HESI filed its Motion to Dismiss or, in the Alternative, for More Definite Statement [Doc. 52] and thereafter filed its Renewed Motion to Stay Proceedings Pending Transfer by the Judicial Panel on Multidistrict Litigation. [Doc. 54]. Plaintiffs responded in opposition (the "Opposition") on August 4, 2010 [Doc. 65], arguing that the stay should be denied because "[t]he posture of this case has not changed since this Court's June 2nd Order stating HESI's Motion to Stay was premature" and because "the Judicial Panel on Multidistrict Litigation has not yet consolidated this and other similar cases." Opposition at 2, 4.

However, in light of recent events, Plaintiffs' arguments are now largely moot. First, as discussed previously, HESI filed a Motion to Dismiss or, in the Alternative, for More Definite Statement in response to Plaintiffs' Complaint and in compliance with the Court's June 2, 2010, Order. Second, on August 10, 2010, the MDL Panel in *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL-2179 issued a Transfer Order consolidating 77 virtually identical actions for coordination of all pretrial proceedings in the U.S. Eastern District of Louisiana (Judge Barbier), including 23 cases pending in the Southern District of Alabama. A true and correct copy of the Transfer Order is attached as Exhibit A.

In response to the initial Transfer Order, the Transferee Court issued a Pre-Trial Order No. 1, also on August 10, 2010, extending all responsive pleading deadlines in and/or staying all cases that are subject to the Transfer Order pending a pre-trial conference in the consolidated proceeding. *See* Pre-Trial Order No. 1 at ¶ 6, a true and correct copy of which is attached as Exhibit B.

In the Transfer Order, the MDL Panel also indicated that it will soon issue a Conditional Transfer Order ("CTO"), and such CTO will likely transfer and centralize the more than 200 remaining potential "tag-along" actions for all pre-trial proceedings in the Transferee Court. *See* Transfer Order at p. 1, n.1, p. 3. The instant case is one such "tag-along" action. *See* Notice of Potential "Tag-Along" Actions, a true and correct copy of which is attached as Exhibit C. In the likely event that this action is conditionally transferred to the U.S. Eastern District of Louisiana, it would automatically become subject to the Transferee Court's Order staying the proceeding pending the pre-trial conference in the consolidated proceeding. *See* Pre-Trial Order No. 1 at ¶¶ 2, 3 ("This Order . . . will also apply to any 'tag-along actions' later filed in, removed to, or transferred to this Court Any 'tag-along actions' later filed in, removed to or transferred to this Court . . . will automatically be consolidated with this action[.]").

For the reasons stated by HESI in its Renewed Motion to Stay and in light of the fact that this case likely will soon be transferred to and consolidated in the Transferee Court, and thus be subject to the Transferee Court's orders and stay, the Court should immediately stay this case pending a determination by the MDL Panel as to whether this case will be included in the cases subject to a forthcoming CTO. Unless the Court grants an immediate stay, the parties and the Court may very well waste time, efforts and resources briefing issues that will likely need to be re-briefed in the Transferee Court's consolidated proceedings. Moreover, allowing this case to proceed when it is likely to be transferred pursuant to a CTO could frustrate the Transferee Court's purposes for implementing the stay set forth in its Pre-Trial Order No. 1. To the extent this case is not included in a CTO, the Court would be able to lift the stay if and when appropriate.

The U.S. Court for the Southern District of Alabama has, in the previous few days, granted motions to stay proceedings in cases likely to be considered "tag-along" actions. For example, Judge William Steele of the Southern District of Alabama granted HESI's Motion to Stay Proceedings in Civil Action No. 10-0421-WS-B, *James E. Fisher, et al., v. BP, PLC, et al.*, on August 17, 2010, noting that "the interests of justice would be served by entry of a stay in this case until such time as the MDL Panel rules on the transfer issue." A true and correct copy of that court's Order is attached as Exhibit D. Consistent with that reasoning, this Court should stay all proceedings in the above-captioned lawsuit until after the Judicial Panel on Multi-District Litigation (the "MDL Panel") issues a Conditional Transfer Order ("CTO")

CONCLUSION

For the foregoing reasons, a stay is appropriate in order to preserve judicial economy and efficiency and to prevent a waste of resources and the accompanying prejudice to HESI. HESI respectfully requests that this Court enter an order staying all proceedings in this case pending the MDL Panel's issuance of a CTO with regard to the above-captioned litigation, without prejudice to the rights of any party to file a motion for leave in the case of an emergency or other exceptional circumstances or to seek an extension of the stay.

Respectfully submitted this 20th day of August, 2010.

GODWIN RONQUILLO PC

DONALD E. GODWIN (GODWD 5022) (*pro hac vice*)

Email dgodwin@godwinronquillo.com

BRUCE W. BOWMAN, JR. (*pro hac vice*)

Email bbowman@godwinronquillo.com

JENNY L. MARTINEZ (*pro hac vice*)

Email jmartinez@godwinronquillo.com

FLOYD R. HARTLEY, JR. (*pro hac vice*)

Email fhartley@godwinronquillo.com

GAVIN E. HILL (*pro hac vice*)

Email ghill@godwinronquillo.com

1201 Elm Street, Suite 1700
Dallas, Texas 75270-2041
Telephone: 214.939.4400
Facsimile: 214.760.7332

and

R. ALAN YORK (*pro hac vice*)
Email ayork@godwinronquillo.com
1331 Lamar, Suite 1665
Houston, Texas 77010
Telephone: 713.595.8300
Facsimile: 713.425.7594

and

s/ Russell C. Buffkin
JOHN N. LEACH (LEACJ2634)
Email jnl@helmsinglaw.com
JOSEPH P. H. BABINGTON (BABIJ7938)
Email jpb@helmsinglaw.com
RUSSELL C. BUFFKIN (BUFFR6510)
Email rcb@helmsinglaw.com
**HELMSING, LEACH, HERLONG, NEWMAN
& ROUSE, P.C.**
Post Office Box 2767
Mobile AL 36652
Telephone: 251.432.5521
Facsimile: 251.432.0633

**ATTORNEYS FOR DEFENDANT,
HALLIBURTON ENERGY SERVICES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that I have on this 20th day of August, 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.

Jere L. Beasley, Esquire
Rhon E. Jones, Esquire
David B. Byrne, III, Esquire
John E. Tomlinson, Esquire
J. Parker Miller, Esquire
BEASLEY, ALLEN, CROW, METHVIN, PORTIS
& MILES, PC
Post Office Box 4160
Montgomery, AL 36103-4160
Counsel for Plaintiffs

Christopher D. Boutwell, Esquire
BEASLEY, ALLEN, CROW, METHVIN, PORTIS
& MILES, PC
415 East Commerce Street, Suite 215
Greenville, AL 36037
Counsel for Plaintiffs

A. Danner Frazer, Jr., Esquire
Ross A. Frazer, Esquire
Robert J. Mullican, Esquire
FRAZER GREENE UPCHURCH & BAKER
Post Office Box 1686
Mobile, AL 36633
Counsel for Cameron International Corp.

Randal H. Sellers, Esquire
M. Warren Butler, Esquire
Bryan G. Hale, Esquire
STARNES DAVIS FLORIE
100 Brookwood Place, 7th Floor
Birmingham, AL 35209
Counsel for Cameron International Corp.

John M. Johnson, Esquire
Adam K. Peck, Esquire
William H. Brooks, Esquire
Marchello D. Gray, Esquire
LIGHTFOOT, FRANKLIN & WHITE, L.L.C.
400 North 20th Street
Birmingham, AL 35203
Counsel for BP Entities

Richard C. Godfrey, Esquire
John T. Hickey, Jr., Esquire
James Andrew Langan, Esquire
KIRKLAND & ELLIS, LLP
300 N. LaSalle
Chicago, IL 60654
Counsel for BP Entities

David J. Beck, Esquire
BECK, REDDEN & SECRET, LLP
One Houston Center
1221 McKinney Street, Suite 4500
Houston, TX 77010
Counsel for Cameron International Corp.

s/ Russell C. Buffkin

Of counsel