

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

WILLIAM D. GREGOIRE, et al. \* CIVIL ACTION NO. 2:10-CV-01351
\*
VERSUS \* JUDGE KURT D. ENGELHARDT
\*
TRANSOCEAN, LTD., et al. \* MAG. JUDGE ALMA CHASEZ
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NOTICE OF RELATED CASE
AND NOTICE OF REQUESTED TRANSFER OF CASE
PURSUANT TO LOCAL RULES 3.1 & 3.1.1E

NOW COME Plaintiffs, William Gregoire, et al., through undersigned counsel, who give notice to this Court and opposing counsel pursuant to Local Rule 3.1 of a substantially similar and related civil action that was filed prior to the immediate case, and to give notice that Plaintiffs shall and hereby do formally request transfer of this proceeding "to the section to which the matter having the lowest docket number has been allotted," namely the Wetzel case, No. 2:10-cv-01222; Sec. J(5), pursuant to Local Rule 3.1.1E.

On May 5, 2010, Plaintiffs herein filed their original "Class Action Complaint" on behalf of:

All individuals and entities (both natural and juridical) in the State of Louisiana, which are commercial fishermen, shrimpers, charter boat operators, and/or businesses which incur economic losses as a result of the oil spill from the Deepwater Horizon well.

[10-1351, Rec. Doc. 1, p.10, para. 21]. On April 28, 2010, prior to the commencement of this civil action, other plaintiffs filed Wetzel, et al. v. Transocean, et al., No. 2:10-cv-01222 ("Wetzel"), a very similar class action in the Eastern District of Louisiana, on behalf of:

All individuals and entities (both natural and juridical) in the States of Louisiana, Mississippi, Alabama and/or Florida which are commercial fishermen, shrimpers, charter boat operators, and/or businesses which incur economic losses as a result of the oil spill

from the Deepwater Horizon well.

[10-1222, Rec. Doc. 1, pp. 5-6, para. 9]. The operative facts giving rise to both of these class actions are the same, and the subject matter of these two related cases clearly overlap. Although there are a number of pending class actions seeking “economic damages” resulting from the BP Oil Spill, upon information and belief, the first filed class action seeking such relief—and therefore the civil action with the lowest docket number pending in the Eastern District—is the *Wetzel* (10-cv-1222) case.

In an effort to comply with Local Rules 3.1<sup>1</sup> & 3.1.1E,<sup>2</sup> notice is hereby given to this transferor Court and opposing counsel of this collateral proceeding by “append[ing] on a separate sheet of paper” the material facts regarding the *Gregoire* and *Wetzel* cases in the form of

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<sup>1</sup> Local Rule 3.1 regarding “Collateral Proceedings and Refiled Cases” provides:

Whenever a civil matter, commenced in or removed to the court, involves subject matter that either comprises all or a material part of the subject matter or operative facts of another action, whether civil or criminal, then pending before this or another court or an administrative agency, or previously dismissed or decided by this court, counsel shall append on a separate sheet of paper, to the front of the complaint, a list and description of all such actions then known to counsel and a brief summary of the relationship. If information concerning any such action or proceeding is obtained subsequent to the filing of the original pleading in the latter case, it shall be the duty of counsel obtaining such information to notify the court and opposing counsel in writing of the information so received in the same manner.

<sup>2</sup> Local Rule 3.1.1E regarding “Assignment of Collateral Proceedings, etc.” provides:

In order to promote judicial economy and conserve judicial resources, and to avoid the potential for forum shopping and conflicting court rulings, all actions described in [LR3.1](#) shall be transferred to the section to which the matter having the lowest docket number has been allotted, unless the two judges involved determine that some other procedure is in the interest of justice. If the transferee or transferor judges cannot agree upon whether a case should be transferred, the opinion of the transferee judge prevails.

If counsel fails to make the certification described in [LR3.1](#), then the allotted judge shall take this action when he or she learns of the related nature of the proceedings.

a Notice of Related Case. A similar “Notice of Related Case” has this date been filed in the *Wetzel* case. Furthermore, Plaintiffs will file a “Motion to Consolidate and Transfer Case Pursuant to Local Rules 3.1 and 3.1.1E” in the *Gregoire* proceeding later today.

Given that this case “involves subject matter that either comprises all or a material part of the subject matter or operative facts of another action,” namely the previously filed *Wetzel* case, Local Rules 3.1 & 3.1.1E dictate that this Court “shall” transfer the later filed case “to the section to which the matter having the lowest docket number has been allotted.” As is undoubtedly well-known to this Court, the use of the obligatory word “shall” indicates that such a transfer is not discretionary. Furthermore, given that Local Rule 3.1.1E expressly states the purpose of this obligatory rule (i.e., “to promote judicial economy and conserve judicial resources, and to avoid the potential for forum shopping and conflicting court rulings”), the immediate transfer of this proceeding is evident from the record.

Plaintiffs respectfully suggest that Local Rules 3.1 & 3.1.1E authorize, if not dictate, Your Honor to consolidate these related proceedings *sua sponte* through transfer. Under the current circumstances, Plaintiffs respectfully suggest that there is no need for a contradictory hearing regarding this transfer. Given the nature of the first-filed *Wetzel* case and this proceeding, Plaintiffs respectfully request Your Honor to transfer and consolidate this proceeding to the first-filed proceeding as soon as practicable and without further delay. Plaintiffs have submitted a proposed ORDER (as an attachment to Plaintiffs’ Motion to Consolidate) to accomplish this transfer for Your Honor’s consideration.

For all of the foregoing reasons, Plaintiffs respectfully give NOTICE OF THESE RELATED CASES and respectfully request Your Honor to transfer this later-filed civil action to

the section to which the matter having the lowest docket number has been allotted, namely *Wetzel*, 2:10-cv-01222; Sec. J(5), without the need of any formal hearing or further delay.

Respectfully submitted:

*s/Michael C. Palmintier*

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### **CERTIFICATE**

I HEREBY CERTIFY that on this 8<sup>th</sup> day of June, 2010, the foregoing document 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 by operation of the court's electronic filing system.

*s/J.E.Cullens, Jr.*  
**J.E.Cullens, Jr.**