

Oil in the Gulf - Litigation & Insurance Coverage

November 4-5, 2010 | Fontainebleau Miami Beach



CONFERENCE CHAIRS:

Richard Faulk, Esq., Gardere Wynne Sewell LLP, Houston

Lorelie Masters, Esq., Jenner & Block LLP, Washington, DC

Mike Papantonio, Esq., Levin Papantonio Thomas Mitchell Echsner Rafferty & Proctor, P.A., Pensacola, FL

Philip Silverberg, Esq., Mound Cotton Wollan & Greengrass, New York

Perry Weitz, Esq., Weitz & Luxenberg, New York

Thursday, November 4, 2010

7:45 Morning Registration & Continental Breakfast

8:00 Introductory Remarks

8:30 **Where We Are Today and Unique Issues for Public Entities**

- Next steps in the MDL
 - Status of the fund and applicable caps
 - BP's Response- A Retrospective
 - Cases filed to date, their nature & jurisdictional breakdown
 - Where do public entities fit in? How can they recover damages when precluded from the fund?
 - The interplay between BP Fund Administration and the MDL BP Litigation
- Scott Summy, Esq., Baron & Budd, Dallas
 Mike Papantonio, Esq., Levin Papantonio Thomas Mitchell Echsner Rafferty & Proctor, P.A., Pensacola, FL
 Perry Weitz, Esq., Weitz & Luxenberg, New York

9:30 **Effective Trial Skills and MDL Strategies for Toxic Tort Cases**

- What does it take to persuade a jury or the bench?
 - Do you want yours to be a bellwether trial?
 - What does your client need to understand about being part of the MDL?
 - General timeline-moving your case through the system efficiently and effectively
- W. Mark Lanier, Esq., The Lanier Law Firm, Houston

10:00 **The Ways to Seek Recovery**

- Filing with the fund or filing suit-which is preferable and when?
 - Detailed discussion of the kinds of claims
 - An NRD claim
 - Business interruption and economic loss
 - Personal injury claims-on the rig, the fumes from the oil and dispersant effects
 - Maximizing your claim-case selection-what kind of client and case do you want
 - Presenting evidence in a meaningful way-the required proofs & the necessary experts
 - Timeline for your case or claim, the applicable laws and acts, etc.
 - Do you want to settle, be part of class action or an individual suit?
- Ervin Gonzalez, Esq., Colson Hicks Eidson, Coral Gables, FL
 Stephen Herman, Esq., Herman Herman Katz & Cotlar LLP, New Orleans
 Robin Greenwald, Esq., Weitz & Luxenberg, New York

11:15 Morning Break

11:30 **Natural Resource Damages-Digging Deeper in the Deep Oil Horizon Damages**

- Coordination of damage claims amongst natural resource damage trustees and responsible parties
- The legal principles of natural resource damages (trustee claims v. private claims)
- Damages & possible restoration projects
- The interaction of private economic damage claims with resource restoration efforts

Christopher Marraro, Esq., Howrey, LLP, Washington, DC
 Ira Gottlieb, Esq., McCarter & English, LLP, New York
 William J. Jackson, Esq., Jackson Gilmour & Dobbs, PC, Houston

12:30 Networking Lunch

1:45 **Dealing with Claims and Discovery Issues**

- Discovery Ju-Jitsu - countering defense strategies that keep documents out of play
 - Easing the burden of finding the hot docs
 - Litigation Management-keeping the big picture focus
- Arthur R. Crivella, CEO & Co-Founder, Crivella West, Carnegie, PA
 Suzanne Ilene Schiller, Esq., Manko, Gold, Katcher & Fox LLP, Bala Cynwyd, PA
 Brent Coon, Esq., Brent Coon & Associates, Beaumont, TX

2:30 **Evaluating and Proving Business Loss and Property Damage Effectively**

- Use and enjoyment losses by impacted property owners-how to value and prove them
- Property value-key current issues & preliminary results
- Fiscal & economic losses to local governments
- When and how will these property values be restored?
- "Stigma damages"-are they recoverable? If so, when?

Chip Merlin, President, Merlin Law Group, P.A., Tampa, FL
 John Kilpatrick, PhD, Chief Executive Officer, Greenfield Advisors, Seattle
 Michael Webster, CPA, President, Meaden & Moore, Chicago
 Richard Faulk, Esq., Gardere Wynne Sewell LLP, Houston

3:30 Afternoon Break

3:45 **The Oil Spill and Related Health Impacts on the General Population and Workers**

- The impact of the oil spill on general health: skin, pulmonary and intestinal reactions to exposure
- The dispersants: what is in it, where is it banned, and will it cause physical injury
- The kinds of experts you will need to assess personal injury claims arising out of the spill-from the expert's perspective
- Documenting or refuting health effects, from both sides of the table
- Understanding the medical work up clients will require
- What makes one case stronger than another
- Medical monitoring-is it warranted and what would it look like?
- Secondary health effects on ecosystem damage and environmental impacts - how they are masked
- PTSD

Tee L. Guidotti, MD, MPH, DABT, The NMAS Group, Rockville MD
Kenneth W. Smith, Esq., Of Counsel, Sheller, P.C., Philadelphia

4:30 **Historical Comparisons and Criminal Liability**

- The Exxon Valdez spill - similarities & lessons learned
- The Court's rulings in *In re the Exxon Valdez*: What precedents were established concerning class certification, punitive damages, economic losses and the application of maritime law
- "Stigma" damages to property in *In re the Exxon Valdez* - what to expect for this spill
- The trial in *In re the Exxon Valdez* and its relation to the Gulf spill
- Criminal liability
- The kinds of criminal and civil charges that can be brought against which parties
- The relationship between state & federal prosecutions
- Potential remedies and sanctions
- What this means for your client
- Negotiating global settlements involving multiple governmental client agencies, states and various interest groups

Gary Mason, Esq., Mason, LLP, Washington, DC
Stuart Gerson, Esq., Epstein Becker & Green, P.C., Washington, DC
Christopher Kende, Esq., Cozen O'Connor, New York

5:30 **Adjourn and Cocktail Reception**

Friday, November 5, 2010

8:00 **Continental Breakfast**

8:30 **Avoiding Fraud Concerns in the Claims Process**

- The factors contributing to fraudulent claims
- Various types of fraudulent claims arising out of the oil spill
- Industries at risk for fraudulent claims
- How to expedite the claims process
- Red flags for experts and the counsel who retained them
- Client screening-what can counsel do to minimize fraudulent claims

Marta Alfonso, CPA, Partner, Morrison, Brown, Argiz & Farra, LLP, Miami
James Garner, Esq., Sher Garner Cahill Richter Klein & Hilbert, LLC, New Orleans

9:15 **Insurance Coverage Issues-Traditional First Party Claims**

- CGL-economic loss coverage & exclusion considerations
- Time elements coverage & property coverage, including business interruption
- First steps for filing a claim with a carrier
- Advising your client
- Gathering documents and the right information
- Timeline
- Who to file a claim with: pros and cons-coverage attorney perspectives
- Filing a claim for business interruption, property damage or other economic losses against a carrier
- With your carrier, with the fund, both or waiting game?
- Other coverages at play
- Forum considerations-unique issues in LA and other impacted states

Lorelie Masters, Esq., Jenner & Block, Washington, DC
Philip Silverberg, Esq., Mound Cotton Wollan & Greengrass, New York
Dale Hausman, Esq., Wiley Rein LLP, Washington, DC
Selena Linde, Esq., Dickstein Shapiro, Washington, DC

10:30 **Morning Break**

10:45 **Specialty Coverage-NRD, Criminal and Others**

- D & O
 - Coverage for criminal liability
 - First-party issues, including valuation and appraisal
 - Additional insureds or "Other People's Insurance"
 - Coverage for punitive damages
 - NRD coverage
 - Offshore Physical Damage or Operator's Extra Expense Coverage
- Christina Carroll, Esq., McKenna Long & Aldridge LLP, Washington, DC
Ira Gottlieb, Esq., McCarter & English, LLP, New York

12:00 **Adjourn**

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