

NO. 2010-CV-25752

MATTHEW DAVIS	§	IN THE DISTRICT COURT OF
	§	
	§	HARRIS COUNTY, TEXAS
VS.	§	
	§	151 <sup>ST</sup> JUDICIAL DISTRICT
	§	
TRANSOCEAN LTD., TRANSOCEAN	§	
OFFSHORE DEEPWATER DRILLING	§	
L.L.C., BP EXPLORATION AND	§	
PRODUCTION, INC. and BP, PLC	§	<b>JURY TRIAL DEMANDED</b>

**MICAH SANDELL AND DENNIS DEWAYNE MARTINEZ'S**  
**ORIGINAL PETITION IN INTERVENTION**

Intervenors MICAH SANDELL and DENNIS DEWAYNE MARTINEZ (collectively “Intervenors”) complain of Defendants TRANSOCEAN LTD., TRANSOCEAN OFFSHORE DEEPWATER DRILLING, L.L.C., BP EXPLORATION AND PRODUCTION, INC., and BP, PLC, and for cause of action respectfully show this Honorable Court the following:

**I.**

Discovery in this matter will be conducted pursuant to Level 2.

On April 20, 2010, a blow out occurred on a rig operated by the Transocean Defendants and leased by the BP Defendants. The resulting explosion and fire led to the severe injuries to the Intervenors in this case. Because the Transocean Defendants were the rig operators and owners, and because the BP Defendants had leased the rig and had a significant hand in the control of the rig—importantly in the application of casing and cement and preparation of the well for production—Intervenors seek remedy against both the BP and Transocean Defendants. And, as BP has a long history involving similar incidents, Intervenors seek punitive damages against the BP Defendants.

**II.**

Defendant TRANSOCEAN LTD. is a foreign company doing business in the State of Texas. TRANSOCEAN LTD. may be served with process through its registered agent for

service: Capitol Corporate Services, Inc., 800 Brazos, Suite 400, Austin, Texas 78701.

Defendant TRANSOCEAN OFFSHORE DEEPWATER DRILLING, L.L.C. is a foreign limited liability company doing business in the State of Texas. It can be served through its registered agent: Capitol Corporate Services, Inc., 800 Brazos, Suite 400, Austin, Texas 78701.

Defendants BP EXPLORATION AND PRODUCTION, INC. and BP, PLC are foreign entities that do business in Texas. These Defendants can be served via their registered agent in Texas: C.T. Corporation System, 350 North St. Paul St., Dallas, TX 75201-4234.

### **III.**

Intervenor Micah Sandell is a resident of Louisiana.

Intervenor Dennis Dewayne Martinez is a resident of Louisiana.

### **IV.**

The Court has jurisdiction over this matter in that Defendants do business in the State of Texas. Venue is proper in this matter because two of the Defendants are headquartered in this County.

### **V.**

Intervenors are American seamen and bring this action pursuant to Title 46 U.S.C. § 688.

### **VI.**

At all times material hereto, Intervenors were aboard the DEEPWATER HORIZON (the “Vessel”) as employees of the Transocean Defendants and were acting within the course and scope of their employment as seamen in service of the Vessel. The DEEPWATER HORIZON was owned by the Transocean Defendants, but was leased by the BP Defendants.

### **VII.**

On April 20, 2010, as Intervenors were performing their regular duties aboard the vessel,

they both sustained severe injuries to their persons. Such injuries were legally caused by the negligence of the Defendants and the unseaworthiness of the Vessel in question. Specifically, the DEEPWATER HORIZON caught fire and exploded, and ultimately sunk, injuring more than twenty, and likely killing eleven. During the explosion, both Intervenors were thrown and, as a result, sustained severe injuries. Such an incident does not occur without an unseaworthy condition or negligence. Due to their severe injuries, Intervenors cannot work. Indeed, in light of the circumstances leading to Intervenors' injuries, there is a rebuttable presumption that the vessel was unseaworthy. Further, because the vessel was leased to the BP Defendants, such Defendants have a duty to ensure that operations are conducted in a prudent manner. The BP Defendants failed in that regard, legally causing Intervenors' injuries.

Defendant BP Exploration and Production, Inc. has a record of safety infractions in the Gulf of Mexico. In the last ten years, this Defendant has been fined by the Minerals Management Service (MMS) at least five times. These infractions include:

- \$41,000 fine for a "loss of well control." MMS found that this Defendant "failed to verify employees were trained to competently perform the assigned well control duties";
- \$190,000 fine for an improperly installed fire diverter system. This violation was discovered in the wake of a fire that damaged property and the environment;
- \$80,000 fine for bypassing relays for the Pressure Safety High/Low on four producing wells;
- \$70,000 fine for low pressure in the fire water system; and
- \$190,000 fine for the BP's rig operator, after it was found that BP's employees, working as contractors, bypassed the safety valves on a rig. MMS discovered that found that the rig failed to shut down in an emergency because the safety devices had been bypassed.

Because of BP's record, specifically because similar incidents have occurred on other rigs leased

by BP, and because, on information and belief, a well control issue led to the blow out that occurred in this case, Intervenors seek punitive damages for the BP Defendants' gross negligence and malice.

Intervenors also specifically plead the doctrine of *Res Ipsa Loquitur*.

### **VIII.**

By reason of the occurrences made the basis of this action, including the conduct on the part of the Defendants, Intervenors sustained severe bodily injuries. Intervenors have suffered physical pain and mental anguish and, in reasonable medical probability, will continue to do so for the balance of their natural lives.

### **IX.**

As a result of the foregoing injuries, Intervenors have suffered a loss of wages in the past and a loss of or reduction in the capacity to work and earn money in the future and, in reasonable probability, their earning capacities have been impaired permanently.

### **X.**

Additionally, Intervenors have incurred reasonable and necessary medical expenses in the past and, in reasonable probability will incur reasonable medical expenses in the future.

### **XI.**

Additionally, as a result of the injuries sustained in the occurrences as set forth above, Intervenors have suffered in the past and will, in reasonable medical probability, continue to suffer permanent physical impairment.

### **XII.**

Pleading further, in the alternative, if it is shown that either Intervenor was suffering from some pre-existing injury, disease and/or condition, then such was aggravated and/or exacerbated

as a proximate result of the occurrence made the basis of this lawsuit.

### **XIII.**

Intervenors are physically impaired as a result of injuries sustained in the above-referenced occurrence. As a consequence, they have both lost the ability to perform household services and, in reasonable probability, this loss is permanent.

### **XIV.**

Intervenors would show that on the above-mentioned date, they were injured while in the service of a vessel. Because they are both employees, the Transocean Defendants have, and continue to have, a non-delegable duty to provide Intervenors with the benefits of maintenance and cure. Intervenors would show that they have not reached maximum medical improvement and that Defendants' duty continues. Defendants have denied payment and/or have unreasonably delayed payments for maintenance and cure and/or have paid maintenance in an insufficient amount. Defendants' conduct towards these injured seamen is arbitrary, malicious, capricious, and wrong. As a result of Defendants' failure to pay and/or delay in paying the benefits of maintenance and cure, Intervenors have suffered further injuries and damages, for which they now sue. Intervenors would further show that Defendants' failure to provide the benefits of maintenance and cure was not only unreasonable, but was arbitrary and capricious, or willful, callous and persistent, and that as a result thereof, Intervenors are thus entitled to PUNITIVE DAMAGES, and an award of attorneys' fees, for which they now sue, in addition to all other relief sought.

### **XV.**

#### **Request for Rule 194 Disclosure**

Pursuant to Texas Rule of Civil Procedure 194, Intervenor requests that Defendants



