

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

In Re: Oil Spill by the Oil Rig	*	
“Deepwater Horizon” in the Gulf		MDL 2179
of Mexico, on April 20, 2010	*	
	*	SECTION: J(2)
Applies to:		JUDGE BARBIER
All Cases in the B3 Pleading	*	
Bundle	*	MAG. JUDGE CURRAULT
	*	

ORDER
[PTO 68 Compliance Order]

On October 21, 2019, the Court entered Pretrial Order No. 68 (“PTO 68”), which identified specific categories of documents that B3 plaintiffs¹ and BP were required to provide to one another. (Rec. [Doc. 26070](#), amended by Rec. Docs. 26077, 26088, 26113, 26200, 26400, 26414). Specifically, plaintiffs were required to produce:

- (a) All medical records, bills, and any other documents from physicians, healthcare providers, hospitals, pharmacies, insurance companies, or others who have provided treatment to the B3 Plaintiff in the past fifteen (15) years or that the B3 Plaintiff otherwise identified in his or her Particularized Statement of Claim (“PSOC”), or other submission made pursuant to PTO 63 or PTO 66, including all medical records that support causation, that are in the possession of the B3 Plaintiffs or their counsel;
- (b) All documents constituting, reporting, summarizing, or referring to any medical test, psychological test, psychiatric test, intelligence test, mental health test, or standardized test of any kind ever taken by or administered to the B3 Plaintiff in the past fifteen (15) years that are in the possession of the B3 Plaintiffs or their counsel;

¹ “B3 plaintiffs” refers to the plaintiffs in the B3 pleading bundle, which includes all claims for personal injury and/or medical monitoring for exposure or other injury occurring after the explosion and fire of April 20, 2010. (Pretrial Order No. 25, Rec. [Doc. 983 at 2](#)).

- (c) The completed and verified Supplemental Medical Disclosure Form, [Exhibit A to PTO 68, Rec. [Doc. 26070-1](#)] . . . ; and
- (d) The completed and signed Authorization for Release of Medical Records Information, for every health care professional identified in the Supplemental Medical Disclosure Form, [Exhibit B to the First Amendment to PTO 68, Rec. [Doc. 26077-1](#)]

(Rec. [Doc. 26070](#) at 4). Plaintiffs had 90 days, or until January 21, 2020, to comply with PTO 68. Many B3 plaintiffs requested and received an extension up to February 20, 2020 to comply. (Rec. Docs. 26199, 26206 & 26211).

In accordance with the Court's instructions, On April 13, 2020, BP filed a status report on the parties' compliance with PTO 68. (Rec. [Doc. 26449](#)). The report stated that 99 B3 plaintiffs did not comply with PTO 68. After reviewing BP's status report, the Court, on April 20, 2020, issued an Order to Show Cause Re: Compliance with PTO 68. ("Show Cause Order," Rec. [Doc. 26453](#)). That order deemed 8 of the plaintiffs listed in BP's status report to be compliant with PTO 68. However, the Court ordered the other 91 plaintiffs to show cause in writing by May 18, 2020 why their claims should not be dismissed for failing to comply with PTO 68. The Court received several responses to the Show Cause Order, ² to which BP replied. (Rec. [Doc. 26506](#)). Nexsen Pruet, a law firm that represents the bulk of the B3 plaintiffs, moved for leave to file a sur-reply. (Rec. [Doc. 26522](#)). The Court will grant that motion and has considered Nexsen Pruet's sur-reply brief along with the other briefing.

Below the Court rules on 48 of the 91 plaintiffs listed in the Show Cause Order.

² Fetterhoffs (Rec. [Doc. 26475](#)); Helmholtz (Rec. [Doc. 26481](#)); Nexsen Plaintiffs (Rec. [Doc. 26487](#)); Becnel Plaintiffs, Rec. [Doc. 26490](#)); LWCC (Rec. [Doc. 26494](#)); D'Amico Plaintiffs (Rec. [Doc. 26495](#)); Beachem (Rec. [Doc. 26496](#)).

The Court defers ruling on 43 plaintiffs. Those plaintiffs will be addressed at the status conference scheduled for Wednesday, September 16, 2020 at 9:30 a.m. (*See* Rec. [Doc. 26659](#)).

I.

The Court recently dismissed the claims of Ricky Robin, Jr. (No. 17-cv-03383). Accordingly, the Show Cause Order is moot with respect to this plaintiff.

II.

BP concedes six plaintiffs “sufficiently amended their original timely PTO 68 disclosures such that the prior deficiencies are resolved.” (Rec. [Doc. 26506](#) at 3). Accordingly, the following plaintiffs are deemed compliant with PTO 68, and their claims are NOT dismissed:

19-cv-11667	Burrus, John Mark
17-cv-03152	Dobbs, Terresa
17-cv-02932	Helmholtz, Michael Benjamin
17-cv-03302	Jaouhari, Hilal
17-cv-04383	Jones, Sammie
17-cv-04583	Simmons, Tony

III.

Two plaintiffs failed to respond to Show Cause Order despite being ordered to do so. These claims will be dismissed with prejudice:

17-cv-03681	Burkett, Craig Michael
16-cv-15259	Watson, Esther Marie

IV.

Plaintiffs’ counsel concedes that the following three plaintiffs failed to comply with PTO 68. (*See* Rec. [Doc. 26487](#) at 7 & n.1). These claims will be dismissed with

prejudice.

17-cv-03551	McCall, Verda Mae
17-cv-04181	Sketteno, Jr., Samuel
17-cv-04236	Williams, Randy

V.

As mentioned above, PTO 68 required B3 plaintiffs to provide, among other things, (1) the “completed and verified Supplemental Medical Disclosure Form,” (“Medical Disclosure Form”), and (2) the “completed and signed Authorization for Release of Medical Records Information,” (“Medical Authorization”). The following 24 plaintiffs have never provided a signed Medical Disclosure Form and/or a Medical Authorization. The Court will dismiss these plaintiffs’ claims for failing to comply with PTO 68:

17-cv-03019	Allen, Chavis
17-cv-03640	Brimage, Iesha
17-cv-04437	Britney, Micheln
17-cv-03134	Craig, Anthony
17-cv-04160	Daniel, Dana
17-cv-03957	Edwards, Natasha Late
17-cv-03195	Fleming, James
17-cv-03317	Landry, Cy M.
17-cv-04422	Manning, Anthony D.
17-cv-04429	Martin, Tatasha
17-cv-04070	McElroy, Alexis
17-cv-04475	Pejic, Nenad
17-cv-04266	Timmons, Frances
17-cv-04296	Washington, Janet
17-cv-04632	Williams, Angelinia
17-cv-04516	Williams, Roy L.
17-cv-04561	Magee, Virdee
17-cv-04561	Magee, Whitney Burroughs
17-cv-04561	Magee, Xavier
17-cv-04310	Davis, III, Luke
17-cv-03270	Hawthorne, Ayana F.

17-cv-03350	Fetterhoff, Carol Lynn
17-cv-03350	Fetterhoff, Chayton Lee
17-cv-03350	Fetterhoff, Chelsea Lynn

VI.

Twelve plaintiffs provided responses to PTO 68 that were significantly late. These plaintiffs did not produce any of the documents required by PTO 68 until May 13, 2020—nearly four months after the original PTO 68 deadline and three months after the extended deadline.³ Consistent with prior decisions in this MDL,⁴ these claims will be dismissed:

17-cv-03368	Baldo, Lisa Marie
17-cv-03372	Bank, Ryan Clayton
17-cv-03323	Benoit, Bernice Ann
17-cv-03328	Benoit, Roy Paul
17-cv-03366	Brown, Michael Todd
17-cv-03393	Coco, III, Malcolm Alphonse
17-cv-03373	Couture, Jr., Raymond
17-cv-03334	Elrod, Aiden Connor
17-cv-03331	Elrod, Jarod Shane
17-cv-03376	Nehlig, Chris Emile (Decedent)
17-cv-03381	Robin, III, Charles Raymond
17-cv-03389	Robin, Ricky Raymond

VI.

The Court defers ruling at this time on the following plaintiffs: Louisiana Workers' Compensation Corp. (No. 17-cv-03199), the 35 plaintiffs listed in Appendix 6 to BP's reply brief (Rec. [Doc. 26506-1](#)), and the 7 plaintiffs listed in Appendix 7 to BP's reply brief (Rec. [Doc. 26506-1](#)). The Court will address whether these 43

³ None of these twelve plaintiffs requested an extension, however.

⁴ *See, e.g.*, PTO 66 Compliance Order at 14-15, Rec. [Doc. 25356](#) (dismissing claims by plaintiffs who submitted PTO 66 responses over a month after the extended deadline); *see also In re Deepwater Horizon*, 805 F. App'x 262, 265-66 (5th Cir. 2020) (unpublished) (affirming dismissal of claim by plaintiff that did not respond to PTO 65 until two months after the deadline).

plaintiffs have complied with PTO 68 during the status conference scheduled for Wednesday, September 16, 2020 at 9:30 a.m. (*See* Rec. [Doc. 26659](#)).

VII.

Accordingly,

IT IS ORDERED that Nexsen Pruet, LLC's Motion for Leave to File a Sur-reply (Rec. [Doc. 26522](#)) is GRANTED.

IT IS FURTHER ORDERED that the Show Cause Order (Rec. [Doc. 26453](#)) is MOOT with respect to Ricky Robin, Jr. (No. 17-cv-03383), whose claim was previously dismissed.

IT IS FURTHER ORDERED that the following plaintiffs are deemed COMPLIANT with PTO 68, and their claims are NOT dismissed:

19-cv-11667	Burrus, John Mark
17-cv-03152	Dobbs, Teresa
17-cv-02932	Helmholtz, Michael Benjamin
17-cv-03302	Jaouhari, Hilal
17-cv-04383	Jones, Sammie
17-cv-04583	Simmons, Tony

IT IS FURTHER ORDERED that the claims by the following plaintiffs are DISMISSED with prejudice:

17-cv-03681	Burkett, Craig Michael
16-cv-15259	Watson, Esther Marie
17-cv-03551	McCall, Verda Mae
17-cv-04181	Sketteno, Jr., Samuel
17-cv-04236	Williams, Randy
17-cv-03019	Allen, Chavis
17-cv-03640	Brimage, Iesha
17-cv-04437	Britney, Micheln
17-cv-03134	Craig, Anthony
17-cv-04160	Daniel, Dana

17-cv-03957	Edwards, Natasha Late
17-cv-03195	Fleming, James
17-cv-03317	Landry, Cy M.
17-cv-04422	Manning, Anthony D.
17-cv-04429	Martin, Tatasha
17-cv-04070	McElroy, Alexis
17-cv-04475	Pejic, Nenad
17-cv-04266	Timmons, Frances
17-cv-04296	Washington, Janet
17-cv-04632	Williams, Angelinia
17-cv-04516	Williams, Roy L.
17-cv-04561	Magee, Virdee
17-cv-04561	Magee, Whitney Burroughs
17-cv-04561	Magee, Xavier
17-cv-04310	Davis, III, Luke
17-cv-03270	Hawthorne, Ayana F.
17-cv-03350	Fetterhoff, Carol Lynn
17-cv-03350	Fetterhoff, Chayton Lee
17-cv-03350	Fetterhoff, Chelsea Lynn
17-cv-03368	Baldo, Lisa Marie
17-cv-03372	Bank, Ryan Clayton
17-cv-03323	Benoit, Bernice Ann
17-cv-03328	Benoit, Roy Paul
17-cv-03366	Brown, Michael Todd
17-cv-03393	Coco, III, Malcolm Alphonse
17-cv-03373	Couture, Jr., Raymond
17-cv-03334	Elrod, Aiden Connor
17-cv-03331	Elrod, Jarod Shane
17-cv-03376	Nehlig, Chris Emile (Decedent)
17-cv-03381	Robin, III, Charles Raymond
17-cv-03389	Robin, Ricky Raymond

IT IS FURTHER ORDERED that the Court DEFERS ruling with respect to the following plaintiffs: Louisiana Workers' Compensation Corp. (No. 17-cv-03199), the 35 plaintiffs listed in Appendix 6 to BP's reply brief (Rec. [Doc. 26506-1](#)), and the 7 plaintiffs listed in Appendix 7 to BP's reply brief (Rec. [Doc. 26506-1](#)). The Court will address whether these 43 plaintiffs have complied with PTO 68 during the status

conference scheduled for Wednesday, September 16, 2020 at 9:30 a.m. (See Rec. [Doc. 26659](#)).

New Orleans, Louisiana, this 8th day of September, 2020.


United States District Judge

Note to Clerk:

**Docket in 10-md-2179 and in each of the cases dismissed by this order.
Mail a copy of this Order to the following pro se plaintiffs:**

Bruce, Shane Maddox	18-02626
Burkett, Craig Michael	17-03681
DeBose, Jimmy Raymond	17-03675
DeBose, Karen Ann	17-03670
Evans, Robert (Engineers & Filmmakers Computer Users Group)	16-03966
Fetterhoff, Carol Lynn	17-03350
Fetterhoff, Chayton Lee	17-03350
Fetterhoff, Chelsea Lynn	17-03350
Helmholtz, Michael Benjamin	17-02932
Keyes, Ellis (Estate of Christine C. Keyes)	14-02211
Merchant, Raymond Joe	15-04290
Watson, Esther Marie	16-15259