

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**PATRICK JOSEPH TURNER, ET AL.** \* **CIVIL ACTION**  
**VERSUS** \* **NO. 05-4206**  
**MURPHY OIL USA, INC.** \* **CONSOLIDATED CASE**  
\* **SECTION "L" (2)**

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**THIS DOCUMENT RELATES TO CASE NOS. 06-0557 AND 06-6120**

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**CASE MANAGEMENT ORDER FOR PERSONAL INJURY AND PROPERTY  
DAMAGE OPT-OUT CASES, THE PRESENCE OF MURPHY OIL IS CONTESTED  
(REVERSE BIFURCATION – DAMAGES ONLY)**

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A Status Conference was held November 30, 2007 and a telephone hearing was held on December 12, 2007.

Participating were:

- Scott Smith, Esq. for plaintiffs
- Lynn Eric Williams, Esq. for plaintiffs
- D. Scott Carlile, Esq. for plaintiffs
- Kerry J. Miller, Esq. for defendant

Pleadings have been completed. Jurisdiction and venue IS established.

This Case Management Order applies only to the "damages" portion of the referenced actions, as damages issues have been bifurcated from liability determinations. Damages shall be tried first, with issues of liability and fault allocation to be addressed in separate trials and case management schedules, which will be decided by the Court at a later date.

To expedite discovery, conserve judicial resources, and facilitate the administration of the consolidated cases before the Court, the Court hereby enters the following Case Management Order,

which will be applicable to the following Plaintiffs in the referenced consolidated actions which are all represented by Lynn Eric Williams and Scott Smith:

David and Penny Snow, 2913 Pecan Dr.  
Ref. No. 06-0557;

Earl Lagaist, 2001 Gallo Dr., Unit B  
Ref. No. 06-0557;

Carol and Simeon Delacruz, 3417 Decomine Drive,  
Ref. No. 06-0557;

Josephine and Patrick Thompson, 3509 Decomine,  
Ref. No. 06-0557;

Josephine and Patrick Thompson, 1205 Magistrate Street East,  
Ref. No. 06-0557;

Eric Eilers, 2301 Pelitere Drive,  
Ref. No. 06-0557;

Brandon Giroir, 2308 Pelitere,  
Ref. No. 06-6120

Luperello, 2009 Octavia St., Ref. No. 06-0557.

All of these cases involve personal injury and/or property claims where the presence of Murphy crude oil on the subject property is contested by Murphy.

1. All dispositive motions shall be filed and served in sufficient time to permit hearing on July 30, 2008. Any motions filed in violation of this Order shall be deemed waived unless good cause is shown.
2. All pretrial motions, including motions *in limine*, regarding the admissibility of expert testimony, shall be filed and served in sufficient time to permit hearing on July 30, 2008. Any motions filed in violation of this Order shall be deemed waived

unless good cause is shown. All other motions *in limine* shall be allowed to be filed up to the time of trial or as otherwise ordered by the Court.

3. Counsel shall complete all disclosure of information as follows:
  - a. Depositions for trial use shall be taken and all discovery shall be completed no later than July 28, 2008.
  - b. Amendments to pleadings, third-party actions, cross-claims, and counterclaims, shall be filed no later than thirty (30) days from the date of this Order without leave of Court.
4. Counsel adding new parties subsequent to mailing of this Notice shall serve on each new party a copy of this Case Management Order. Pleadings responsive thereto, when required, shall be filed within the applicable delays.
5. By February 1, 2008, counsel for Defendant shall make available for inspection and copying all documents relating to testing and remediation undertaken on the property of the Plaintiffs subject to this Order. Counsel for Defendant shall also make available for inspection and copying all documents relating to testing and remediation on any property located within a 1000 ft. radius of the Plaintiffs' property.
6. Written reports of experts, as defined by the Federal Rules of Civil Procedure 26(a)(2)(B), who may be witnesses for Plaintiffs fully setting forth all matters about which they will testify and the basis therefore shall be obtained and delivered to counsel for Defendant as soon as possible, but in no event later than May 26, 2008. Because of the reverse bifurcation order and trial of damages issues only, the form

and content of Plaintiffs' expert reports under this paragraph should be as follows:

- a. With respect to the presence of Murphy oil on the subject property, each Plaintiff shall provide the following:
  - (1). An expert report executed pursuant to Fed. R. Civ. P. Rule 26 from a qualified expert which sets forth an opinion that Murphy crude oil from the Murphy oil spill was determined to be present on Plaintiff's property. The basis or support for this opinion – such as test results or other evidence – shall be disclosed.
- b. With respect to the quantum of property damage asserted, each Plaintiff shall provide an expert report issued pursuant to Fed. R. Civ. P. Rule 26 from a qualified appraiser or other real estate expert which sets forth, to a reasonable degree of professional certainty, the following:
  - (1). The property address, including tax block and lot number, for the property alleged to have been contaminated by oil from the Murphy oil spill;
  - (2). A quantification of the diminution in value for the property alleged to be so declined due to contamination by Murphy crude oil; and
  - (3). A determination that exposure to Murphy crude oil was a cause of the quantified injury to the property.
- c. With respect to any personal injury claims being asserted by the Plaintiffs, Plaintiff shall provide an expert report issued pursuant to Fed. R. Civ. P. Rule

26 which sets forth, to a reasonable degree of scientific certainty, the following:

- (1). The specific personal injury or illness allegedly sustained. (A general, vague description such as “cancer” or “emotional distress” will not suffice. The exact type of illness or injury must be identified.);
- (2). The date the identified illness or injury was diagnosed, including the name and address of the medical care provider who made the diagnosis;
- (3). The toxic substance or event which allegedly caused the identified illness or injury, supported by an explanation of the manner of exposure (i.e., the exposure pathway), the date(s) of exposure, the duration of exposure,; and
- (4). Citation to the scientific literature supporting any claim that exposure to Murphy crude oil and/or the Murphy oil spill was a cause of Plaintiff’s illness or injury.

d. With respect to any mental anguish or other emotional distress claims allegedly resulting from damage to property, if a Plaintiff intends to prove any element of such claim by expert testimony, each Plaintiff shall provide an expert report issued pursuant to Fed. R. Civ. P. Rule 26 which sets forth, to a reasonable degree of scientific certainty, the following:

- (1). A description of the property owner's location on September 3, 2005 when the subject property was allegedly damaged by Murphy crude oil;
  - (2). The specific real mental injury allegedly sustained as a result of the alleged property damage; and
  - (3). The date the alleged real mental injury was diagnosed, including the name and address of the medical care provider who made the diagnosis.
7. Written reports of experts, as defined by the Federal Rules of Civil Procedure 26(a)(2)(B), who may be witnesses for Defendants fully setting forth all matters about which they will testify and the basis therefore shall be obtained and delivered to counsel for Plaintiff as soon as possible, but in no event later than June 26, 2008. Defendant's expert reports will be limited to damages issues.
8. Counsel for the parties shall file in the record and serve upon their opponents a list of all witnesses who may or will be called to testify at trial and all exhibits which may or will be used at trial no later than June 26, 2008.
9. The Court will not permit any witnesses, expert or fact, to testify or any exhibits to be used unless there has been compliance with this Order as it pertains to the witness and/or exhibits, without an order to do so issued on motion for good cause shown.
10. Settlement possibilities were discussed. A further settlement conference will be scheduled at any time at the request of any party to this action.
11. This case does not involve extensive documentary evidence, depositions or other

discovery. No special discovery limitations beyond those established in the Federal Rules and Local Rules of this Court are established.

12. A Final Pretrial Conference will be held on August 26, 2008, at 8:30 a.m. Counsel will be prepared in accordance with the final Pretrial Notice attached.
13. Trial will commence on September 8, 2008 before the District Judge WITH a jury. Attorneys are instructed to report for trial not later than 30 minutes prior to this time. The starting time on the first day of a jury trial may be delayed or moved up because of jury pooling. Trial is estimated to last 1 day.
14. Deadlines, cut-off dates, or other limits fixed herein may only be extended by the Court upon timely motion filed in compliance with the Plan and Local Rules and upon a showing of good cause. Continuances will not normally be granted. If, however, a continuance is granted, deadlines and cut off dates will be automatically extended, unless otherwise ordered by the Court.
15. This Case Management Order applies only to damages issues. If and when necessary, the Court will enter a Case Management Order pertaining to liability and fault allocation issues.

New Orleans, Louisiana this 19<sup>th</sup> day of December, 2007.



UNITED STATES DISTRICT JUDGE

