

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

PATRICK JOSEPH
TURNER, ET AL

Docket No. 05-CV-4206
New Orleans, Louisiana
Tuesday, October 10, 2006

v.

MURPHY OIL USA, INC.

TRANSCRIPT OF MOTION PROCEEDINGS
HEARD BEFORE THE HONORABLE ELDON E. FALLON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

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Madro Bandaries
Darryl J. Becnel
Robert M. Becnel
Bruce Betzer

1 Scott R. Bickford

2 Roberta L. Burns

3 Wayne Duchmann

4 Walter C. Dumas

5 Val P. Exnicios

6 Gary Gambel

7 Kara Hadican

8 Anthony D. Irpino

9 Scott Joanen

10 Al Sarrat

11 Diane Zink

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15 Official Court Reporter:

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19 Proceedings recorded by mechanical stenography, transcript
20 produced by computer.

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1 We have extensively outlined in our memo the reasons that
2 we think the terms of the settlement are reasonable, fair and
3 adequate. And the provisions, as we see them at this point in time,
4 I am here to represent to the court that negotiations occurred as an
5 arm's length transaction. As your Honor is well aware, there were
6 lengthy negotiations which commenced from the very beginning when we
7 appeared in Houston and we started talking at that time and
8 continued to talk.

9 And we're here to ask the court to recognize the
10 settlement at this point in time as preliminarily fair and to
11 schedule a fairness hearing.

12 THE COURT: Let me hear from the defendant on that.

13 MR. MILLER: Kerry Miller on behalf of Murphy Oil USA. We
14 would like to echo many of Mr. Torres' comments. First, Murphy does
15 join in the motion that was made today for the court's preliminary
16 approval over the settlement agreement that has been presented to
17 the court. I echo Mr. Torres' comments, the settlement agreement is
18 a product of arms length negotiations, non-collusive negotiations,
19 hard fought negotiations that have occurred over a period of months
20 between Murphy and counsel for the class.

21 Your Honor, we are also submitting to you for your
22 approval as part of the order today the notice, which we would ask
23 the court to approve so that we can begin to get the notice out.
24 The notice will dictate the deadlines to follow, such as opting back
25 in, final fairness hearing, and finally, the final judgment. Of

1 course we need to get to the final judgment before benefits can be
2 paid, and we're all keenly aware and are interested in the disbursement
3 of the benefits to the members of the class as soon as possible. So
4 we are all working together in that effort, your Honor.

5 We have put together a claims form, we have a claims
6 office that is ready to go. With respect to the 600 opt out
7 properties are attached as Exhibit 1, I think the settlement
8 agreement, we are prepared to begin sending notices to rejoin the
9 class back in tomorrow or the next day. We have a mailing list
10 ready to go and we are ready to move, your Honor. And so we would
11 ask the court, if it can, grant the preliminary approval order
12 tonight so that we can begin with the process that we need to do to
13 comply with Rule 23 and due process so that ultimately in the next
14 60 or 90 days we can begin the process of disbursing benefits to the
15 class. Okay. Thank you, your Honor.

16 THE COURT: Thank you. I heard somebody, saw somebody
17 stand up. Any comments, sir? Would you come forward, give us your
18 name, please. Speak into the mike.

19 MR. DUCHMANN: My name is Wayne Dutchmann, I am a lifelong
20 resident of St. Bernard. I care about the environment and people in
21 St. Bernard. Prior to Katrina two of my nieces were school teachers
22 in St. Bernard, now they teach elsewhere. I have strong ties to the
23 community of St. Bernard, I know most of these lawyers in here and
24 most of them know me.

25 I am pretty familiar with federal court. As a matter of

1 fact, in your chambers we spoke and we had a resolution on one of
2 the cases 13 years ago. Since then I have been in various matters
3 for probably about 16 years in St. Bernard. I sat on a committee
4 but Murphy had me thrown off for obvious reasons, because I asked
5 them to post the notice in the newspaper when the meetings were
6 occurring. The committee meetings were set forth by the federal
7 government and since then Murphy Oil, they write their own laws and
8 their own rules.

9 I am here today, first, let me say that I did call your
10 office and I tried to get information on a motion that we're here
11 for today. All I have from your web site was the Memorandum of
12 Understanding, which is a joint agreement between Murphy and -- I'm
13 sorry, Murphy and the plaintiffs' attorneys. I am no stranger to
14 your court, I appeared in June and asked to opt out because my mom
15 was being elderly and she needed this money. Since then I realized
16 that we need, I need to get an attorney for my mom, other than the
17 ones that's in this courtroom today. Not that I don't have respect
18 for most of them, I really do. Most of the lawyers that know me,
19 and some of them that ain't here today, I have highly respected.

20 However, Murphy in this preliminary memorandum it seems
21 like they still not saying they sorry for this oil spill. It's
22 No. 10 on the Memorandum of Understanding, and it says that:
23 "Murphy does not admit any liability for the oil spill and expressly
24 denies any of our liability." We think we need, the citizens of
25 St. Bernard, they need to step forward and say we are sorry and we

1 are going to try to make things right.

2 The second thing I am opposed to is the \$40 a square foot
3 for my mother's house, which comes to \$40,000. As you well know,
4 Walter Leger is a plaintiffs attorney, I spoke to him at great
5 lengths over this, we actually were supposed to have a meeting
6 between Joe Bruno and Walter Leger and sit down with this Road Home
7 to Recovery because I thought it was the best interest for momma to
8 get this money right away. And then this happens where a settlement
9 came through with Murphy.

10 I'm also deeply regret to have to inform the court that
11 No. 12 on here, it says: "All members of the PSC agree not to
12 represent or opt out or object to the settlement." I am here to
13 object to the settlement. \$40 a square foot is not going to get it.
14 For \$40,000 my momma won't be made at even half a whole in this
15 incident.

16 So with that in mind, your Honor, I don't want you to
17 continue with this hearing because I have not had time to prepare
18 for this or to have legal, my legal rights -- excuse me, I'm under a
19 lot of pressure right now.

20 THE COURT: That's all right. You take your time, sir.
21 You're a citizen of this country and I respect that and give you an
22 opportunity to speak.

23 MR. DUCHMANN: Thank you, your Honor. I already said that
24 most of the attorneys in this room I have highly respected, and as
25 you well know I am no stranger to federal court, I was here, sued

1 Murphy before when they failed to comply with some federal laws.
2 Also I had another case where Lynn Dean filed against St. Bernard
3 Parish where they tried to build a jail on the historical site that
4 was contaminated.

5 THE COURT: We have to stick to this issue.

6 MR. DUCHMANN: I am. I am just setting a platform where
7 it is established credibility that I am an environmentalist, I do
8 care about this community, and I am not here for the money because I
9 have nothing to gain from this, and I have signed all of my rights
10 over to my mother. I am here for her interest and the elderly
11 people in St. Bernard.

12 I went through the main ones where Murphy will deny
13 liability and not say they sorry for what they done. There is
14 another clause where it's not stipulated on how this is going to
15 work to opt out or object. I am here to object to \$40 a square
16 foot, I think it needs to be amended and stipulate to some kind of
17 clause so we can understand this.

18 And also I am going to ask the court to require these
19 attorneys to provide me our information that I request. I have
20 problems when people don't call me back, your Honor. I do not have
21 time to stand by the phone knowing that these attorneys will not
22 call me back, much less present me any kind of evidence or exhibits
23 that I request.

24 THE COURT: Okay. Anything further?

25 MR. DUCHMANN: No, sir. I just want you take into

1 consideration before you make this ruling that \$40 a square foot for
2 people's residential property that didn't have insurance would not
3 be made whole.

4 THE COURT: Okay. Thank you very much.

5 MR. DUCHMANN: Thank you.

6 THE COURT: I note the objection. I have before me a
7 motion to preliminarily approve the settlement, the class
8 settlement. A motion to preliminarily approve the settlement simply
9 means that, it's a preliminary approval. It allows the parties to
10 then publish this information, disclose the information, specifics
11 of it, give everybody in the parish an opportunity to look at it,
12 make some observation of it, make some decisions, decide whether or
13 not to opt out or opt back in, and a fairness hearing will be set in
14 the future to give everybody an opportunity to speak at the fairness
15 hearing.

16 This is simply a motion to preliminarily approve the
17 settlement agreement and to also disclose the settlement agreement,
18 publish the settlement agreement. I see no reason why the court
19 should not approve this. I am conscience of the efforts of the
20 parties involved, of the lawyers involved. I've been intimately
21 involved with this case, been with it now for over a year, and I
22 know the extent of the information the lawyers have produced and
23 have discussed and have discovered and the nature and extent of the
24 negotiations, and I do and will preliminarily approve this
25 agreement.

1 I am going to set a fairness hearing for January the 4th,
2 2007 to begin at nine o'clock, and at that time we will hear any
3 objections, if there be any objections. So the motion is granted.
4 I will endorse it as presented to me.

5 The next motion I have before me is the motion of
6 plaintiffs to expedite hearing for plaintiffs' motion to enforce a
7 dispute resolution agreement, I'm sorry, the appeal provision. I
8 have received the documentation of that, the briefs in support of
9 it, I understand what the arguments are. I see no reason for there
10 to be any oral argument on it. I am going to take it under
11 advisement. It may well be moot if the matter is appealed or if
12 there is an indication of appeal. I will give counsel an
13 opportunity at that time to speak on it.

14 This issue may or may not be mooted. I am not going to
15 decide anything that is not even before me from the standpoint of
16 the issue, so the best course of action is to take it under
17 advisement. If it becomes necessary, I will give an opportunity for
18 the parties to talk about it and give you notice of it so that I can
19 hear from you if this becomes necessary. Anything further today?

20 MR. BECNEL: Robert Becel, I along with Jay Andry, are
21 co-chair of the claims committee and the proof of claims process.
22 Just to bring you up-to-date, we've completed 391 forms and there
23 are 204 that are incomplete, that is they are awaiting additional
24 documentation.

25 More importantly, for the first time in my life after

1 working in claims offices, a gentleman by the name of Joe Oubre
2 (PHONETIC) stopped in to the trailer, and he drove in from out of
3 town and he wanted me to express his thanks to the PSC, the
4 attorneys.

5 And then my wife, Diane, then had the opportunity to talk
6 to an elderly lady who stopped in to fill out a claim form, and she
7 asked us to express to you her thanks because she thought she would
8 never see this day, she thought it would take five to ten years and
9 it would come to her children. So on behalf of those two people, I
10 want to extend to you their thanks for moving this case along.

11 THE COURT: I've been on both sides of this bench, both
12 from the lawyer side and the judge's side, and I know that the work
13 is on the lawyer's side. This matter has been resolved and resolved
14 quickly because of the competence of counsel and because of the work
15 of counsel. I am simply a referee, did nothing but provide a fair
16 playing field. They deserve the credit and certainly did the work
17 for it. But I do recognize the person you mentioned and thank her
18 for it, her thanks really should be given to the lawyers involved on
19 both sides.

20 Anything further? Yes, sir. Let's make it brief, please.

21 MR. DUCHMANN: Sure. Like Ray Nagin, I left my speech in
22 the car, so I forgot something, your Honor.

23 THE COURT: All right.

24 MR. DUCHMANN: I would like to thank the court for the
25 outstanding web site they had. Without this, a miscarriage of

1 justice would have occurred because I wouldn't have known to be here
2 in court today. I didn't know today wasn't the fairness hearing
3 because I don't have a copy of the motion, I only have a copy of the
4 memoranda. The court had some motion that I didn't know of.

5 THE COURT: I endeavor to put everything on the web site,
6 and so please stay tuned on that, you will get fully informed.

7 MR. DUCHMANN: I would just like to thank the person that
8 developed the web site, because without this a miscarriage of
9 justice would have occurred. I will be here for the fair hearing
10 and also I'll be making my complaint along with a petition of other
11 people that think \$40 a square foot for their home that they worked
12 so hard for is outrageous and that we will take it from there.
13 Thank you, your Honor, and thank this court. God bless the USA.

14 THE COURT: Okay. Anything further from anybody? Can I
15 see a couple of liaison counsel for each side, just for logistical
16 purposes. The court will stand in recess. Thank you.

17 THE DEPUTY CLERK: Everyone rise.

18 THE MARSHAL: All rise.

19 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)
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3 REPORTER'S CERTIFICATE
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5 I, Karen A. Ibos, CCR, Official Court Reporter, United States
6 District Court, Eastern District of Louisiana, do hereby certify
7 that the foregoing is a true and correct transcript, to the best of
8 my ability and understanding, from the record of the proceedings in
9 the above-entitled and numbered matter.

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12 _____
13 Karen A. Ibos, CCR, RPR, CRR
14 Official Court Reporter
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