

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

In re: Oil Spill by the Oil Rig	*	MDL NO. 2179; CA 10-2771
“Deepwater Horizon” in the Gulf	*	
of Mexico, on April 20, 2010	*	SECTION: J
	*	
Applies to: All Cases	*	JUDGE BARBIER
	*	
(Including No. 10-2771)	*	MAGISTRATE SHUSHAN
	*	
* * * * *	*	

PRETRIAL ORDER NO. 42

[Approving forms for Short-Form Joinder and Plaintiff Profile Form amendments and dismissals; Deeming amendment and dismissal forms to be filed within the MDL and Limitation Action; Adopting forms for the release of medical and employer information; Vacating Pretrial Order 34]

To further the efficient and effective management of the coordinated actions herein — and for the convenience of *pro se* plaintiffs in particular — by facilitating the amendment of Short-Form Joinders and Plaintiff Profile Forms and the dismissal of Short-Form Joinders and individual Complaints,

IT IS ORDERED as follows:

- Whether through counsel or *pro se*, any entity or individual who has filed a Short-Form Joinder or served a Plaintiff Profile Form may amend their Short-Form Joinder or Plaintiff Profile Form using the Amendment Form reflected in EXHIBIT 1 [“Amendment Form”], and may dismiss their Short-Form Joinder or individual Complaint using the Dismissal Form reflected in EXHIBIT 2 [“Dismissal Form”], subject to the provisions below.
- The Amendment Form or Dismissal Form may be filed without payment of a filing fee.

3. Pretrial Order No. 24 is hereby amended to allow for the filing of the Amendment Form and Dismissal Form in CA 10-8888.

4. Any Amendment Form or Dismissal Form filed to amend or dismiss a Short-Form Joinder shall be filed in CA 10-8888.

5. Any Amendment Form or Dismissal Form filed in CA 10-8888 to amend or dismiss a Short-Form Joinder shall be deemed to be the simultaneous filing of an amendment or dismissal in MDL 2179 [No. 10-md-2179] and the Limitation Action [No. 10-2771].

6. Any Amendment Form filed to amend a Plaintiff Profile Form shall be served on all counsel using LexisNexis® File & Serve, as provided in Pretrial Order No. 12 [Doc. 600].

7. Any Dismissal Form filed to dismiss only an individual Complaint, and not a Short-Form Joinder, shall be filed in MDL 2179 [No. 10-md-2179].

8. For plaintiffs who filed both an individual Complaint and a Short-Form Joinder — per Paragraph 14 of Pretrial Order No. 25 [Doc. 983] — the filing of a Dismissal Form in CA 10-8888 shall be deemed the simultaneous filing of a motion to dismiss both the plaintiff's individual Complaint and the Short-Form Joinder.

9. Attorneys filing Dismissal Forms on behalf of a client must elect whether the dismissal is “with” or “without” prejudice.

10. Dismissal Forms filed by *pro se* plaintiffs shall be deemed requests for dismissal without prejudice, and such dismissals shall be deemed to dismiss the actions or claims asserted without prejudice.

11. Any Dismissal Form filed in accordance with this Order shall be deemed a motion to voluntarily dismiss with or without prejudice; and such motions are hereby deemed **GRANTED**; the Court will not issue a separate order granting voluntary dismissal.

12. Any attorney filing Amendment or Dismissal Forms on behalf of more than one claimant must file them separately.

13. Any Bundle A or Bundle B3 plaintiff who alleges personal injury must complete the authorization form reflected in EXHIBIT 3 ["Authorization And Direction for Disclosure And Release Of Medical Records"]. Bundle A plaintiffs must complete authorization forms with respect to any medical provider who has rendered care since January 1, 2008. Bundle B3 plaintiffs must complete authorization forms with respect to any medical provider who has rendered care since April 20, 2010. In addition, a Bundle A plaintiff must complete the authorization form reflected in EXHIBIT 4 ["Authorization And Direction for Disclosure And Release Of Employee/Personnel Records"] for each of the plaintiff's employers from January 1, 2008 to present. A Bundle B3 plaintiff who claims damages for lost work-time must complete the authorization form reflected in EXHIBIT 4 for each employer from January 1, 2010 to the present. Accordingly, the Court hereby adopts the authorization forms reflected in EXHIBITS 3 & 4 as the court-approved forms for the release of medical records and employee/personnel records to be used for Pleading Bundle A and Bundle B3 claims. These authorization forms must not be filed publicly, but shall be sent directly to Liskow & Lewis, One Shell Square, 701 Poydras Street, Suite 5000, New Orleans, LA 70139-5099, or served on all counsel using LexisNexis® File & Serve, as provided in Pretrial Order No. 12 [Doc. 600]. Any and all documents obtained in connection with these authorizations shall be treated as "Confidential Access Restricted" under the Order Protecting Confidentiality (Pretrial Order No. 13), and subject to full copies of same being made available to the Plaintiff (or his attorney if applicable) and the PSC through Plaintiff Liaison Counsel.

14. Any amendment made through an Amendment Form shall be subject to the provisions of Pretrial Order No. 20 addressing Direct Filing [Doc. 904].

15. The dismissal of an action or claim without prejudice pursuant to the terms of this Order shall not waive or otherwise affect any defendant's substantive or procedural rights (if any) under any release which may have been obtained through settlement. The plaintiff reserves the right to challenge the scope or validity of any release with respect to some or all of plaintiff's actions or claims (if any). The defendants reserve the right to assert that a release signed by the plaintiff has terminated that particular plaintiff's case, and to assert any other defense of any kind.

16. The provisions set forth in Pretrial Orders Nos. 24 and 25 shall continue to govern the procedures by which the defendants shall answer or otherwise respond to the Master Complaints and/or Master Answers and Claims in Limitation filed in this litigation, including actions or claims which may be amended or dismissed *via* the Amendment or Dismissal Forms adopted herein; no defenses, objections, motions or exceptions for lack of jurisdiction, lack of presentment, mootness, lack of standing, or any other defense that may be specific or unique to any particular plaintiff shall be waived, and all such defenses, objections, motions and/or exceptions specific to any particular plaintiff shall be reserved. In addition, any and all rights under the Hague Convention shall not be deemed to be waived by the entry of this Order, and are hereby preserved.

17. No provision of this order shall be construed to change any procedural requirement set out in the Federal Rules of Civil Procedure, Local Rules, or prior orders of this Court, unless expressly stated herein.

18. No provision of this Order shall be construed to amend the April 20, 2011 motion date set in CA 10-2771 [*See* Doc. 569] or to alter the procedural significance thereof.

19. No provision of this Order shall be construed to permit the assertion of any class actions or class claims as part of the Master Claim in Limitation [CA 10-2771] or otherwise as part of the Limitation Action [CA 10-2771].

20. In light of the recent decision from the United States Court of Appeals, Fifth Circuit, *In re: The St. Joe Co.*, No. 11-30410 (5th Cir. Aug. 8, 2011) (per curiam), Pretrial Order No. 34 [Rec. Doc. 1918], respecting dismissals without prejudice, is hereby **VACATED**.

New Orleans, Louisiana this 16th day of September, 2011.



UNITED STATES DISTRICT JUDGE

IN RE: OIL SPILL by “Deepwater Horizon”

AMENDMENT TO DIRECT FILING SHORT FORM (or PLAINTIFF PROFILE FORM)¹

Authorized by Order of the Court, Civil Action No. 10-md-2179 Rec. Doc. 4043
 (Copies of said Order having also been filed in Civil Actions No. 10-8888 and 10-2771)

Please include any information that adds to or is different from your original Short Form or Plaintiff Profile Form.
(It will be presumed, for all spaces left blank on this form, that the information is the same.)

MDL 2179 and Civil Action No. 10-2771

SECTION: J

JUDGE CARL BARBIER

**CLAIM IN LIMITATION / JOINDER IN MASTER ANSWER / INTERVENTION AND JOINDER
 IN MASTER COMPLAINTS – PLAINTIFF/CLAIMANT PROFILE AMENDMENT FORM**

By submitting this document, I, or the business I am authorized to act for, hereby amend the claims or information provided in the Short Form (or Plaintiff Profile Form) identified below.

Short Form filed? YES NO

If yes, list your Original Short Form Document Number (this is the document filing number to you upon filing your Short Form with the Court).

Short Form Document No.: _____ (filed in No. 10-8888).

Plaintiff Profile Form served? YES NO

If yes, list your “LexisNexis® File & Serve” Number (this is the 8-digit number stamped on the Plaintiff Profile Form when it is filed on LexisNexis® File & Serve).

LexisNexis® File & Serve No.: _____

If yes, please provide the following information about your original case:

Original Case Caption: _____

Original Civil Action No.: _____

Originating Court: _____

EDLA Civil Action No.: _____

Last Name	First Name	Middle Name/Maiden	Suffix
Phone Number		E-Mail Address	
Address		City / State / Zip	

INDIVIDUAL CLAIM <input type="checkbox"/>	BUSINESS CLAIM <input type="checkbox"/>
Employer Name	Business Name
Job Title / Description	Type of Business
Address	Address
City / State / Zip	City / State / Zip

¹ **If amending a Short Form**, this form should be filed with the U.S. District Court for the Eastern District of Louisiana, 500 Poydras Street, New Orleans, Louisiana 70130, in Civil Action No. 10-8888. **If amending a Plaintiff Profile Form**, this form should be served on all counsel using LexisNexis® File & Serve, as provided in Pre-Trial Order No. 12 [Doc. 600].

Last 4 digits of Social Security Number	Last 4 digits of Tax ID Number
Attorney Name (if applicable)	Firm Name (if applicable)
Address	City / State / Zip
Phone Number	E-Mail Address
Claim filed with BP? YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, list BP Claim No.: _____	Claim Filed with GCCF? YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, list Claimant Identification No.: _____
Claim Type (Please check all that apply): <input type="checkbox"/> Damage or destruction to real or personal property <input type="checkbox"/> Earnings/Profit Loss <input type="checkbox"/> Personal Injury/Death <input type="checkbox"/> Fear of Future Injury and/or Medical Monitoring <input type="checkbox"/> Loss of Subsistence use of Natural Resources <input type="checkbox"/> Removal and/or clean-up costs <input type="checkbox"/> VoO Charter Dispute <input type="checkbox"/> Other _____	

Brief Description:

1. For earnings/profit loss, property damage and loss of subsistence use claims, describe the nature of the injury. For claims involving real estate/property, include the property location, type of property (residential/commercial), and whether physical damage occurred. For claims relating to fishing of any type, include the type and location of fishing grounds at issue.

2. For personal injury claims, describe the injury, as well as how and when it was sustained. Also, Bundle A plaintiffs should identify all health care providers from January 1, 2008 to present, and complete authorizations for release of medical records for each. Bundle B3 plaintiffs should identify all health care providers from April 20, 2010 to present, and complete authorizations for release of medical records for each. Bundle A plaintiffs should also identify all employers from January 1, 2008 to present and complete authorizations for release of employee/personnel records for each employer. Bundle B3 plaintiffs should identify all employers from January 1, 2010, and provide authorizations, if your personal injury took place after April 20, 2010 and you are claiming damages for lost work-time as a result of those personal injuries.² [Additional authorizations may be required.]

3. For post-explosion claims related to clean-up or removal, include your role or your business's role in the clean-up activities, the name of your employer (if applicable), and where you were working.

² All authorization forms should be sent directly to Liskow & Lewis, One Shell Square, 701 Poydras Street, Suite 5000, New Orleans, LA 70139-5099, or served on all counsel using LexisNexis® File & Serve, as provided in Pre-Trial Order No. 12 [Doc. 600]. Any and all documents obtained in connection with these authorizations shall be treated as "Confidential Access Restricted" under the Order Protecting Confidentiality (Pre-Trial Order No. 13), and subject to full copies of same being made available to the Plaintiff (or his attorney if applicable) filing this form and PSC through Plaintiff Liaison Counsel.

Please check the box(es) below that you think apply to you and your claims:

Non-governmental Economic Loss and Property Damage Claims (Bundle B1)

- 1. Commercial fisherman, shrimper, crabber, or oysterman, or the owner and operator of a business involving fishing, shrimping, crabbing or oystering.
- 2. Seafood processor, distributor, retail and seafood market, or restaurant owner and operator, or an employee thereof.
- 3. Recreational business owner, operator or worker, including a recreational fishing business, commercial guide service, or charter fishing business who earn their living through the use of the Gulf of Mexico.
- 4. Commercial business, business owner, operator or worker, including commercial divers, offshore oilfield service, repair and supply, real estate agents, and supply companies, or an employee thereof.
- 5. Recreational sport fishermen, recreational diver, beachgoer, or recreational boater.
- 6. Plant and dock worker, including commercial seafood plant worker, longshoreman, or ferry operator.
- 7. Owner, lessor, or lessee of real property alleged to be damaged, harmed or impacted, physically or economically, including lessees of oyster beds.
- 8. Hotel owner and operator, vacation rental owner and agent, or all those who earn their living from the tourism industry.
- 9. Bank, financial institution, or retail business that suffered losses as a result of the spill.
- 10. Person who utilizes natural resources for subsistence.
- 11. Other: _____

Post-Explosion Personal Injury, Medical Monitoring, and Property Damage Related to Clean-Up (Bundle B3)

- 1. Boat captain or crew involved in the Vessels of Opportunity program.
- 2. Worker involved in decontaminating vessels that came into contact with oil and/or chemical dispersants.
- 3. Vessel captain or crew who was not involved in the Vessels of Opportunity program but who were exposed to harmful chemicals, odors and emissions during post-explosion clean-up activities.
- 4. Clean-up worker or beach personnel involved in clean-up activities along shorelines and intercoastal and intertidal zones.
- 5. Resident who lives or works in close proximity to coastal waters.
- 6. Other: _____

Both BP and the Gulf Coast Claims Facility ("GCCF") are hereby authorized to release to the Defendants in MDL 2179 all information and documents submitted by above-named Plaintiff and information regarding the status of any payment on the claim, subject to such information being treated as "Confidential Access Restricted" under the Order Protecting Confidentiality (Pre-Trial Order No. 13), and subject to full copies of same being made available to both the Plaintiff (or his attorney if applicable) filing this form and PSC through Plaintiff Liaison Counsel.

Claimant or Attorney Signature

Print Name

Date

IN RE: OIL SPILL by "Deepwater Horizon"

DISMISSAL FORM FOR MDL 2179 PLAINTIFFS AND CLAIMANTS-IN-LIMITATION

Authorized by Order of the Court, Civil Action No. 10-md-2179 Rec. Doc. 4043
 (Copies of said Order having also been filed in Civil Actions No. 10-2771 and 10-8888)

MDL 2179 and Civil Action No. 10-2771

SECTION: J

JUDGE CARL BARBIER

DISMISSAL FORM¹

By submitting this form, you are moving to dismiss all claims asserted in the Short Form identified below and/or the individual Complaint identified below. If you are an attorney representing the plaintiff and/or Claimant-in-Limitation identified in the Short Form identified below and/or in the individual Complaint identified below, you must indicate whether you are moving to dismiss with or without prejudice. If you are not represented by an attorney, the Court will deem your filing of this form as a motion to dismiss without prejudice. Once filed, you or your client will no longer be part of the individual cases, class actions, or Master Complaints against BP or other Defendants in MDL 2179 or the Limitation Action against Transocean.

- I am an attorney representing the individual or entity listed in the Short Form identified below and/or a plaintiff in the individual Complaint identified below.
- I am not an attorney. I am individual, or a person authorized to act for a business, that filed the Short Form identified below and/or the individual Complaint identified below.

Plaintiff / Claimant Last Name	Plaintiff / Claimant First Name	Plaintiff / Claimant Middle or Maiden Name	Suffix
Phone Number		E-Mail Address	
Address		City / State / Zip	
INDIVIDUAL CLAIM <input type="checkbox"/>	BUSINESS CLAIM <input type="checkbox"/>		
Employer Name	Business Name		
Job Title / Description	Type of Business		
Address	Address		
City / State / Zip	City / State / Zip		
Last 4 digits of Social Security Number	Last 4 digits of Tax ID Number		

Short Form filed? YES NO

If yes, list your Original Short Form Document Number (this is the document filing number provided to you upon filing your Short Form with the Court).

Short Form Document No.: _____ (filed in C.A. No. 10-8888).

If you filed a Complaint other than a Short Form, please provide the following information about your original case:

Original Case Caption: _____

EDLA Civil Action No.: _____

Originating Court and Action No. (if applicable): _____

¹ If dismissing a Short Form, this form should be filed with the U.S. District Court for the Eastern District of Louisiana, 500 Poydras Street, New Orleans, Louisiana 70130, in Civil Action No. 10-8888. While this Form is to be filed in CA No. 10-8888, by prior order of the Court (Rec. Doc. 4043, in MDL 2179), the filing of this form in C.A. No. 10-8888 shall be deemed to be a simultaneous filing in C.A. 10-2771 and MDL 2179. If dismissing only an individual Complaint, and not a Short Form, this form should be filed with the U.S. District Court for the Eastern District of Louisiana, 500 Poydras Street, New Orleans, Louisiana 70130, in MDL 2179, Civil Action No. 10-md-2179.

Claim filed with BP? YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, list BP Claim No.: _____	Claim Filed with GCCF? YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, list Claimant Identification No.: _____
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Plaintiff Profile Form served? YES NO

If yes, list your "LexisNexis® File & Serve" Number (this is the 8-digit number stamped on the Plaintiff Profile Form when it is filed on LexisNexis® File & Serve).

LexisNexis® File & Serve No.: _____

Attorney Name (if applicable)	Firm Name (if applicable)
Address	City / State / Zip
Phone Number	E-Mail Address

Dismissing your claims means that you or your business will no longer be part of the individual cases, class actions, or Master Complaints against BP and other Defendants in MDL 2179 or the Limitation Action against Transocean. By dismissing your claims, you may lose rights against Transocean, and may forfeit the ability to be included in the February 2012 Trial. You may be able to file another lawsuit or Short Form in the future, but any and all such future actions or claims may be subject to substantive or procedural requirements or limitations. If you have previously dismissed (and re-filed) your claims, and seek to dismiss them again by submitting this form, you may not be able to file another lawsuit, claim or Short Form in the future in connection with the Macondo Well / Deepwater Horizon incident. You should consult a lawyer if you have previously dismissed your claims, or if you have any questions. However, a lawyer is not required to file this form and there is no filing fee.

Please check the box(es) below regarding why you wish to dismiss your claims:

Resolved Claim with the GCCF (List GCCF Claimant Identification No.: _____)

Pursuing Claim with the GCCF (List GCCF Claimant Identification No.: _____)

Other: _____

If you are an attorney, check the box identifying the form of dismissal for which you are moving on behalf of your client. If you are not an attorney, do not complete this box:

Dismissal with Prejudice

Dismissal without Prejudice

Attorney Signature

Date

If you are not an attorney, you must read and sign this box:

By submitting this form, I, or the business I am authorized to act for, dismiss any claims based in the Short Form identified above and/or any claims in the individual Complaint identified above (if any). This means that I, or my business, will no longer be part of the individual cases, class actions, or Master Complaints against BP and other Defendants in MDL 2179 or the Limitation Action against Transocean.

I acknowledge that I have read and understand the information above, I am signing and submitting this form voluntarily, and I have the authority to submit this form on behalf of the Plaintiff identified in the Short Form or individual Complaint identified above. I understand that I have the right to consult with an attorney of my own choosing prior to submitting this form. However, I understand that an attorney is not required to file this form and there is no filing fee.

Plaintiff Signature

Print Name (and Title, if a Business)

Date

Name of Health Care Provider: _____
Address: _____

**AUTHORIZATION AND DIRECTION FOR
DISCLOSURE AND RELEASE OF MEDICAL RECORDS**

I hereby authorize _____ hereafter referred to as the
("Health Care Provider") to release or disclose the health records of:

Name of Patient: _____
Date of Birth: _____
Social Security Number: _____

For the **PURPOSE** of: Litigation

**AUTHORIZATION EXPIRATION DATE: ONE YEAR AFTER DATE OF MY SIGNATURE
BELOW**

YOU ARE HEREBY AUTHORIZED AND DIRECTED to disclose and release the following
to the law firm of **Liskow & Lewis, One Shell Square, 701 Poydras Street, Suite 5000, New Orleans,
LA 70139-5099; hereafter referred to as the "Recipient" of the health information.**

Any and all medical records including, but not limited to, physician's records; surgeons' records;
discharge summaries; progress notes; consultations; pharmaceutical records; medication sheets; patient
information sheets; consents for treatment; medical reports; x-rays and x-ray reports; CT scans, MRI
films, photographs, and any other radiological, nuclear medicine, or radiation therapy films;
interpretations of diagnostic tests; pathology materials, slides, tissues, and laboratory results and/or
reports; consultations; physical therapy records; drug and/or alcohol abuse records; HIV/AIDS diagnosis
and/or treatment; physicals and histories; correspondence; psychiatric records; psychological records;
psychometric test results; social worker's records; other information pertaining to the physical and mental
condition; all hospital summaries and hospital records including, but not limited to, admitting records;
admitting histories and physicals; case records, discharge summaries; physician's orders, progress notes,
and nurses' notes; medical record summaries; emergency room records; all other hospital documents and
memoranda pertaining to any and all hospitalizations and/or out-patient visits; and all insurance records;
statements of account, bills or billing records, or invoices; any other papers concerning any treatment,
examination, periods or stays of hospitalization, confinement, or diagnosis.

For treatment dates: ALL

I understand that the information in my health record may include information relating to sexually
transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus
(HIV). It may also include information about behavioral or mental health services, and treatment for
alcohol and drug abuse.

I understand that I have the right to revoke this authorization at any time. I understand that if I revoke this authorization, I must do so in writing and present my written revocation to the above referenced health care provider. I understand that the revocation will not apply to information that has already been released in response to this authorization. I understand that the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy.

I understand that authorizing the disclosure of this protected health information is voluntary. I can refuse to sign this authorization. I need not sign this authorization in order to assure treatment. I understand any disclosure of information carries with it the potential for an unauthorized redisclosure and the information may not be protected by 45 CFR Parts 160 and 164.

Dated this _____ day of _____ 201__.

Patient Signature

Printed Name (write legibly)

**AUTHORIZATION AND DIRECTION FOR DISCLOSURE
AND RELEASE OF EMPLOYEE/PERSONNEL RECORDS**

EMPLOYER:

Name: _____

Address: _____

EMPLOYEE:

Name: _____

Date of Birth: _____

Social Security No: _____

YOU ARE HEREBY AUTHORIZED AND DIRECTED to disclose and release to the law firm of **Liskow & Lewis, One Shell Square, 701 Poydras Street, Suite 5000, New Orleans, LA 70139-5099**, and/or its duly authorized representative any and all records, files, documents and other information concerning my employment with the above person, firm, corporation or entity.

Dated this _____ day of _____ 201____.

Employee Signature

Printed Employee Signature

Employee Address