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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS, LOUISIANA

PATRICK JOSEPH TURNER, ET AL * Docket 05-CV-4206-L
* and Consolidated Cases
versus *
* November 8, 2005
MURPHY OIL USA, INC. * 11:15 a.m.
* * * * *

PROCEEDINGS BEFORE THE
HONORABLE ELDON E. FALLON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiffs: SIDNEY D. TORRES III, ESQ.
1290 7th Street
Slidell, Louisiana 70458

For the Defendant: Frilot Partridge Kohnke & Clements
BY: KERRY J. MILLER, ESQ.
107 Global Circle
Lafayette, Louisiana 70503

Official Court Reporter: Toni Doyle Tusa, CCR
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New Orleans, Louisiana 70130
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Proceedings recorded by mechanical stenography, transcript
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PROCEEDINGS

(November 8, 2005)

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THE DEPUTY CLERK: Everyone rise.

THE COURT: Be seated, please. Good morning, Ladies and Gentlemen. Let's call the case, please.

THE DEPUTY CLERK: Civil Action 05-4206, Patrick Joseph Turner versus Murphy Oil USA and consolidated cases.

THE COURT: Counsel, make your appearances for the record, please.

MR. TORRES: Sidney Torres for plaintiffs.

MS. BURNS: Roberta Burns for plaintiffs.

MR. STAG: Michael Stag for plaintiffs.

MR. ARSENAULT: Richard Arsenault for plaintiffs.

MR. BECNEL: Daniel Becnel for plaintiffs.

MR. BRUNO: Joseph Bruno for plaintiffs.

MR. EXNICIOS: Val Exnicios for plaintiffs, Your Honor.

THE COURT: Let's hear from the defense.

MR. MILLER: Kerry Miller on behalf of Murphy, Your Honor.

MR. FRILOT: George Frilot on behalf of Murphy, Your Honor.

MR. KROUSE: A.J. Krouse on behalf of Murphy, Your Honor.

1 **MR. DYSART:** Danny Dysart on behalf of Murphy.

2 **THE COURT:** We are having our first monthly status
3 conference. I met with representatives of the liaison
4 committee for both sides, the plaintiffs' committee and the
5 defense committee, to go over the agenda. At my request, they
6 have given to me a proposed agenda. I've added some things to
7 it. I'll take them in order and discuss them with you.

8 First of all, with regard to some logistics, I'm
9 going to create a web site for this particular case. It will
10 be on the Court web site with a link so that it can be easily
11 accessed. I think it's important not only for the attorneys,
12 but it's also important for the litigants who are interested in
13 what's happening that they have access to it. Some individuals
14 may or may not be outside the jurisdiction. They will be able
15 to access the web site and see everything that's happening in
16 this particular case.

17 I will take the agenda in order. First, the
18 joint protective/preservation order. At my request, the
19 parties have met and discussed the drafting of a proposed
20 protective order. I've reviewed it, I've approved it, I've
21 signed it, and it's been made a part of the record. The second
22 item is the plaintiffs' first request for entry on land. I'll
23 hear any discussion on that.

24 **MR. TORRES:** Your Honor, we have submitted the final
25 version for the entry. That has been filed downstairs. I

1 don't know whether you have received the original as yet, but
2 it's agreed upon between defendants and plaintiffs.

3 **THE COURT:** It's agreed upon by the defendants?

4 **MR. MILLER:** Yes, Your Honor.

5 **THE COURT:** I'll execute it and it will be done
6 today. The next item is the plaintiffs' motion and order for
7 the appointment of class interim counsel. Perhaps I wasn't
8 clear. I have already appointed a plaintiffs' committee. The
9 plaintiffs' committee is composed of a representative of each
10 of the class actions that have been filed. I've then
11 appointed an executive committee of five and appointed a
12 liaison committee of one from the plaintiffs' standpoint. I
13 look to that committee of five as being the interim counsel,
14 with the liaison person being lead counsel of that committee.
15 With regard to the defendant's committee, I have appointed the
16 members of the committee as requested by the defendants.

17 I've had some discussions with the parties in
18 this particular case, and I think perhaps it is one of those
19 cases that some time and effort ought to be given to looking at
20 the case as a whole at this point, putting aside the liability
21 question of the case and seeing whether or not a particular
22 program could be approved by counsel for each side and we could
23 move into a settlement class immediately. I've directed
24 counsel to meet and discuss this. We have to move forward and
25 fast on this particular matter. I will give them a week. I'm

1 going to be meeting with them on Monday. I need from them
2 their response as to whether or not it is a doable thing. If
3 it is doable, then we will move forward with the development of
4 a program and settlement class. If it is not a doable thing,
5 then I will meet with counsel and establish some cutoff dates
6 for class certification, discuss deadlines with them, and we
7 will move along that path, a path that is traditionally long.
8 I will expedite it as quickly as possible, but that aspect of
9 the case does take longer.

10 I'm not saying that there is liability or is not
11 liability. I simply want to get over that hurdle at this time
12 and look at whether or not this is a case that a settlement
13 class can be developed at the outset. I look upon it more as a
14 settlement program, that the litigants are given an opportunity
15 to listen to it, understand it, read it, and decide whether or
16 not they want to adopt it. If they want to adopt it, then they
17 are in the program. If they don't want to adopt it, they are
18 out of the program and we deal with them in a separate matter.

19 The program would be contingent, I would assume,
20 on a certain percentage of people opting in. It would also be
21 dependent and conditioned upon the Court certifying a class and
22 approving the settlement program. That's all doable; it just
23 takes some effort. Rather than put that at the tail end of
24 this litigation, I would like to move it at the forward end and
25 see whether or not it is doable. If it is, I will lend the

1 Court's assistance to development of the program and the
2 enforcement of the program. If it is not, you will know it and
3 you will tell me, and then we will go about it in the
4 traditional way. That is presently my plan.

5 Any additional matters that we need to discuss
6 from liaison counsel? I have these meetings in open court
7 because I want not only the plaintiffs' committee to attend,
8 but any litigants who are interested in attending or, for that
9 matter, any other attorneys who are interested in attending. I
10 have them in open court because you need to feel free to make
11 any comments, any suggestions, anything that you think that I
12 need to be aware of or need to cover. Any suggestions that you
13 have, I treat them with respect. I'm interested in your advice
14 and consultation. Anything from anybody who's either on the
15 committee or not on the committee?

16 **MR. TORRES:** Your Honor, can I make an announcement,
17 please, to the plaintiffs' steering committee? We are going to
18 have a meeting at Mr. Bruno's office immediately after this
19 hearing. Also, Your Honor, I noticed there's at least one
20 other attorney, Mr. Gutierrez, who is going to be filing a
21 lawsuit. Any other attorney who is anticipating filing a
22 lawsuit, I invite you to attend that meeting.

23 **THE COURT:** I've directed counsel to meet in Court
24 this week to discuss settlement. I would like it to be in
25 Court so that they can have access to the Court if they have

1 any questions. There will be a meeting either Thursday or
2 Friday or both Thursday and Friday depending upon what their
3 schedules are. Their respective representatives will also be
4 with them. That, at least, is the program.

5 **MR. BECNEL:** Judge, on behalf of the people in this
6 affected area, especially the lawyers that are affected --
7 because a lot of them have lost not only their office, but
8 their homes -- we really appreciate the Court's guidance in
9 maybe helping resolve this expeditiously. We appreciate it.

10 **THE COURT:** Well, it takes efforts on each side,
11 though. It's not only from the Court's standpoint. If it is
12 going to work, it is going to be because of the attorneys in
13 the case. I look around the room and I see the best of the
14 best, which I'm always happy to see. I know that you are
15 capable of putting together this program. It's not going to be
16 the Court's program; it's going to be your program. I'll lend
17 the Court's assistance to it. If it works, it will be because
18 of you and not because of the Court. You deserve the credit
19 for this program. I'll assist you in every way, but it takes
20 both sides to work something out. It takes people to listen
21 and to make suggestions and to seek some common ground. I know
22 you can do it and I will look forward to working with you.
23 Anything further from anyone? Thank you very much. The next
24 meeting will be next month. I have to try a case in Houston
25 the latter part of November. I should be back by December 20

1 if that is convenient with the parties.

2 MR. FRILOT: Point of personal privilege, Your Honor.
3 Thanksgiving week, may I be excused without a problem?

4 THE COURT: That's December 20, a Tuesday.

5 MR. FRILOT: I'm sorry.

6 THE COURT: I'll be out of town beginning the 28th
7 of November. Is 9:00 convenient with everyone? I'll see
8 liaison counsel for both sides at 8:30 that day. Thank you
9 very much. Court will stand in recess.

10 THE DEPUTY CLERK: Everyone rise.

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