

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

\*\*\*\*\*  
PATRICK JOSEPH TURNER, ET AL

v.

Docket No. 05-CV-4206  
New Orleans, Louisiana  
Monday, June 12, 2006, 10:00 am

MURPHY OIL USA, INC.  
\*\*\*\*\*

TRANSCRIPT OF MONTHLY STATUS CONFERENCE PROCEEDINGS  
HEARD BEFORE THE HONORABLE ELDON E. FALLON  
UNITED STATES DISTRICT JUDGE

APPEARANCES :

FOR THE PLAINTIFF:

LAW OFFICES OF SIDNEY J. TORRES  
BY: SIDNEY J. TORRES, ESQUIRE  
ROBERTA L. BURNS, ESQUIRE  
1290 7TH Street  
Slidell, LA 70458

LAMBERT & NELSON  
BY: HUGH P. LAMBERT, ESQUIRE  
701 Magazine Street  
New Orleans, LA 70130

BRUNO & BRUNO  
BY: JOSEPH M. BRUNO, ESQUIRE  
855 Baronne Street  
New Orleans, LA 70113

GAINSBURGH, BENJAMIN, DAVID,  
MEUNIER & WARSHAUER  
BY: GERALD E. MEUNIER, ESQUIRE  
1100 Poydras Street, Suite 2800  
New Orleans, LA 70163-2800

1

LAW OFFICES OF DANIEL E. BECNEL  
BY: DANIEL E. BECNEL, ESQUIRE  
ROBERT BECNEL, ESQUIRE  
425 W. Airline Highway, Suite B  
LaPlace, LA 70068

2

3

4

5

IRPINO LAW FIRM  
BY: ANTHONY IRPINO, ESQUIRE  
One Canal Place  
365 Canal Street, Suite 2990  
New Orleans LA 70130

6

7

8

NEBLETT BEARD & ARSENAULT  
BY: RICHARD ARSENAULT, ESQUIRE  
2220 Bonaventure Court  
Alexandria LA 71309

9

10

11

LANDRY & SWARR  
BY: MICKEY P. LANDRY, ESQUIRE  
1010 Common Street  
Suite 2050  
New Orleans LA 70112

12

13

14

15

LISKA EXNICIOS & NUNGESSER  
BY: VAL P. EXCNICIOS, ESQUIRE  
One Canal Place  
365 Canal Street  
Suite 2290  
New Orleans LA 70130

16

17

18

19

SMITH STAG  
BY: MICHAEL G. STAG, ESQUIRE  
One Canal Place  
365 Canal Street  
Suite 2850  
New Orleans LA 70130

20

21

22

23

GUTIERREZ & HAND  
BY: MARY ANN HAND, ESQUIRE  
SALVADOR GUTIERREZ, ESQUIRE  
111 N. Causeway Boulevard  
Suite 101  
Mandeville LA 70448

24

25

1

DUMAS & ASSOCIATES  
BY: PATTI D. HATCH, ESQUIRE  
1261 Government Street  
Baton Rouge LA 70821

2

3

4

MURPHY ROGERS SLOSS & GAMBEL  
BY: E. CARROLL ROGERS, ESQUIRE  
One Shell Square  
701 Poydras Street  
Suite 400  
New Orleans LA 70139

5

6

7

8

JERALD N. ANDRY, JR.  
ATTORNEY AT LAW  
710 Carondelet Street  
1st Floor  
New Orleans LA 70130

9

10

11

MARTZELL & BICKFORD  
BY: CHRIS H. SHERWOOD, ESQUIRE  
338 Lafayette Street  
New Orleans LA 70130

12

13

14

15 FOR THE DEFENDANT :

FRILOT PARTRIDGE KOHNKE &  
CLEMENTS  
BY: KERRY J. MILLER, ESQUIRE  
ALLEN J. KROUSE, ESQUIRE  
GEORGE A. FRILOT, ESQUIRE  
3600 Energy Centre  
1100 Poydras Street  
New Orleans, LA 70163

16

17

18

19

20

21 FOR THE INTERVENOR :

LOUISIANA DEPARTMENT OF JUSTICE  
BY: RYAN M. SEIDEMANN, ESQUIRE  
1885 N. 3rd Street  
Baton Rouge LA 70802

22

23

24

25 ALSO PRESENT :

DONALD TRAHAN, ESQUIRE  
DIANE ZINK, ESQUIRE  
WAYNE DUCHMANN, PRO SE

25

1 Official Court Reporter: Cathy Pepper, CCR, RPR, CRR  
 2 500 Poydras Street, Room HB-406  
 3 New Orleans, Louisiana 70130  
 (504) 589-7776

4 Proceedings recorded by mechanical stenography; transcript  
 5 produced by computer.

6

7

8

9

I N D E X

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page

5

6

7

Plan for opt-outs to opt back into the class.....

The Vita Owens situation.....

Discovery.....



1 MR. TORRES: No, Your Honor.

2 THE COURT: What about responses for discovery? Any  
3 issues on responses?

4 MR. TORRES: Your Honor, I think we've resolved that.  
5 AJ and Joe have talked about it, and we've gotten that under  
6 control.

7 THE COURT: What is the Vita Owens situation?

8 MR. TORRES: Your Honor, that comes under the agenda  
9 item that you were discussing on opting back in. And once we  
10 come up with the suggested approach to that with Your Honor, that  
11 would address that situation also.

12 THE COURT: Problems are often presented in that type  
13 situation, and in those type situations sometimes half of the  
14 people in the family want to deal with it one way and half of the  
15 people in the family want to deal with it the other way, and  
16 we're dealing with a succession as opposed to an individual, so  
17 it presents some unique problems.

18 There may be interests on both sides to at least have  
19 some handle on this type litigation, so I think it's for the  
20 benefit of the litigation and also for the benefit of the Court.  
21 The Court is interested in seeing it run and handled properly, so  
22 I do look to the attorneys who are skilled in this area of this  
23 sort and very knowledgeable in the field to come up with some  
24 suggestions, and I'll give their suggestions great weight.

25 Anything we need to discuss? Any issues of discovery?

1 Give me some read on the discovery. How is it processing so far?

2 MR. BRUNO: Judge, we're moving, first of all, with  
3 regard --

4 THE COURT: Your name, sir.

5 MR. BRUNO: I'm sorry. Joseph Bruno. First of all,  
6 with regard to the agenda this morning, there was a confusion on  
7 our part, and that's why it's been resolved. We'll have those  
8 responses to the defendants in 24 hours or the like.

9 Discovery could be moving a little bit faster, to be  
10 candid with you, Judge. We have depositions set this afternoon  
11 and on Thursday, and we've blocked off next week. I do -- I  
12 would -- I know that AJ is doing all that he can, but I frankly  
13 have to say that I'm getting a lot of pressure put on me because  
14 of the expert deadlines.

15 THE COURT: Any suggestions that you might have?

16 MR. BRUNO: Well, we have --

17 THE COURT: Can we do multiple tracks?

18 MR. BRUNO: Yes. Let me tell you what we did, Judge.  
19 Yes, we have a 30(b)(6) and it has lots of categories, as you  
20 well know. I took the time last week to break them down into  
21 general categories of subject matter and am ready, willing and  
22 able to work with AJ to bring them down to more manageable  
23 subject areas, and I'm just going to ask that if we could just  
24 pick up the pace a little bit. I know that's general and vague,  
25 but I would appreciate that.

1 THE COURT: AJ, you have some suggestions?

2 MR. KROUSE: Well, I think the problem is, Judge, it's  
3 multifold. We have testing tomorrow in Houston, Texas, as part  
4 of the plaintiff's request on destructive testing. Our  
5 representatives are going to be there for that.

6 We'll continue with the 30(b)(6) deposition on Thursday  
7 of this week with Bill Turnage, and then part of the problem,  
8 Your Honor, to be honest with you, is that we have the tank  
9 demolition that is coming up at the end of the month. And that  
10 is going -- and that's a big event, obviously, to bring this tank  
11 down.

12 I've spoken to Skip and Joe about this issue. We're  
13 going to be laser scanning the tank, the interior of it. They've  
14 had an opportunity with their experts to go in the interior and  
15 exterior of it, but I want to put the Court and the parties on  
16 notice that this tank demolition is just that. We're going to  
17 try to preserve the area at issue, but we've had some internal  
18 issues on the manner in which that's going to be accomplished,  
19 and of course, the plaintiffs are going to participate in that.  
20 We'll have our protocol for this coming up probably this week.

21 Then the final thing is that we have roll-out of  
22 documents. As we've said before, we'll be rolling out e-mails  
23 this week that we have finally secured from the database in  
24 Murphy on certain employees and other witnesses that they've  
25 requested, and we're also going to be rolling out inspection and

1 maintenance documents as well that we were finally able to  
2 retrieve from Murphy's files and database.

3           Finally, Your Honor, the refinery itself has been down  
4 since the storm, and I think it's going to be up in the next week  
5 or so. I'm trying to juggle schedules of people that are  
6 actually working that are crucial, indispensable to the  
7 refinery's operations. I'm not trying to offer that as an excuse  
8 but just as a reality of what's going on. They want to get the  
9 refinery back up and running.

10           THE COURT: Skip, do you have something? Danny?

11           MR. LAMBERT: Your Honor, I just wanted to mention that  
12 AJ told us that we're going to be able to get the scanning that's  
13 being done.

14           MR. KROUSE: That's correct, Your Honor.

15           MR. LAMBERT: And because of that, we're not going to do  
16 our own, so we're trying to cooperate to eliminate or reduce the  
17 amount of interplay.

18           MR. KROUSE: That scanning of the tank is basically  
19 going to take place next Monday or the week of the 19th of June.  
20 We're moving, Your Honor. I know it's not as quickly as some of  
21 the plaintiffs would want, but there is something going on  
22 literally every day that we're trying to accomplish.

23           THE COURT: Danny, you had something?

24           MR. DANIEL BECNEL: Yes, Judge. Turnage. The only  
25 reason we didn't take his deposition yet, I was scheduled to take

1 it about three weeks ago, he had a knee replacement.

2 MR. KROUSE: He had a knee replacement and then he had a  
3 staph infection that he's trying to recover from. I've talked to  
4 him and he'll be ready to go on Thursday, and he's going to speak  
5 about the emergency procedures, hurricane procedures, which is an  
6 action item or agenda item on there.

7 MR. DANIEL BECNEL: That's one of the critical  
8 witnesses. And the other thing that we're going to have to do  
9 once the tank is taken down, although we went inside the tank and  
10 tried to get -- Skip and Ronnie and I tried to get samples from  
11 underneath, until that whole floor is removed, we're not going to  
12 really be able to take it. So the minute that is done, we're  
13 going to go back one last time and see what we find.

14 MR. KROUSE: The tank is not scheduled to come down  
15 until the week of the 10th of July. We'll do some preliminary  
16 stuff during the week of the 26th of July but it's a process.

17 THE COURT: All right. Let's coordinate that because I  
18 don't want any motions later on spoliation and things of that  
19 sort. So keep in the touch with each other, and if everybody has  
20 an opportunity to look at it and touch it and feel it, then we  
21 won't have any problems with that.

22 Anything else? Any suggestions? Any problems that  
23 anybody is having? Anything?

24 Okay, folks, thank you very much.

25 MR. DANIEL BECNEL: Judge, there is one other thing that

1 you brought up earlier. I've been having people come to me to --  
2 they wanted to explore but then I've had to file suit because I  
3 don't want to take a chance on missing the deadline.

4 THE COURT: That's important.

5 MR. DANIEL BECNEL: And that's expensive. \$350 a pop  
6 now. I didn't know if we could amend -- if other people in that  
7 situation, if we could amend into my suit so other clients don't  
8 have to pay \$350 each time.

9 THE COURT: Could be. That's one of the things that you  
10 ought to talk about. That's a potential solution.

11 Yes, sir.

12 MR. DUCHMANN: Your Honor, I would like to address the  
13 Court. I'm a private citizen from St. Bernard.

14 THE COURT: Would you give us your name, sir, so that we  
15 have this on the record and you are on the record.

16 MR. DUCHMANN: Wayne Duchmann. Your Honor, the reason  
17 why I'm here today is because the defendant, I'm sorry, because  
18 the plaintiffs' attorneys filed this postop. My mom is 82 years  
19 old and she wasn't aware of the circumstances. We were in  
20 negotiations with Murphy to settle this matter. This money is  
21 really needed for her care right now. She's 82 and in poor  
22 health.

23 We don't wish to hire Sidney Torres. We wish to  
24 exclude him from the counsel that you appointed. I respect the  
25 counsel that you appointed. They are good attorneys that

1 represent the people of St. Bernard; however, Sidney Torres --

2 THE COURT: Now, wait, just a minute, sir. Mr. Torres,  
3 as well as everybody in this court, is an officer of the Court,  
4 and when you speak against any of these folks here, you're  
5 speaking against the Court and I cannot tolerate that. I've  
6 known all of these people, particularly Mr. Torres, for many  
7 years, and I consider him to be an outstanding attorney.

8 MR. DUCHMANN: I'll file a proper motion with the Court  
9 for this particular hearing.

10 THE COURT: Thank you very much.

11 Anything further?

12 MR. DUCHMANN: I would like to state for the record, the  
13 Constitution of the United States commands twice, the 5th and the  
14 14th Amendment, which states that the federal government shall  
15 not deprive the life, the liberty -- I'm sorry, deprive the life,  
16 the liberty or property out of due process of law. We wasn't  
17 notified about this opt out, and we were in negotiations with  
18 Murphy.

19 I want to state for the record that I'll be attending  
20 all meetings, hearings, and motions on behalf of my mother until  
21 this is finally settled.

22 THE COURT: All right. Well --

23 MR. DUCHMANN: Also, Your Honor --

24 THE COURT: Just a moment, sir. You can't interfere  
25 with the Court.

1 MR. DUCHMANN: I'm sorry.

2 THE COURT: I recognize that you're a citizen of this  
3 country, and I have great respect for citizens of this country.  
4 That's what this whole thing is about, frankly. Everybody in  
5 this courtroom represents somebody. There are people who  
6 represent the plaintiffs, there are people who represent  
7 insurance companies, there are people who represent Murphy.

8 I, too, represent somebody. I represent this room, and  
9 this room contains that Constitution that you just told us about,  
10 as well as the flag behind me, and the people of this country.

11 MR. DUCHMANN: Thank you, Your Honor.

12 THE COURT: So I am aware of the Constitution. I've  
13 been sworn by Congress and --

14 MR. DUCHMANN: I understand. I understand perfectly,  
15 Your Honor.

16 THE COURT: -- to take care of the Constitution.

17 MR. DUCHMANN: Exactly.

18 THE COURT: So I'm aware of it and I'll give you an  
19 opportunity to be here. The Court is open to all of our  
20 citizens, but nobody can disrupt this court. When you're called  
21 upon to speak, you may do so, but there are certain rules of  
22 etiquette also, and criticism of attorneys or criticism of the  
23 flag, criticism of the Constitution, criticism of this court will  
24 not be tolerated in these environs.

25 MR. DUCHMANN: I understand, Your Honor.

1           THE COURT: So you're welcome, sir, but you also have to  
2 abide by certain regulations.

3                   Anything further from you?

4           MR. DUCHMANN: No, sir. Thank you, Your Honor.

5           THE COURT: All right. Court will stand in recess.  
6 We've got a meeting on July 20th. I'll see the parties at  
7 eight o'clock, and then we'll start our conference at 8:30 in  
8 open court.

9                   Thank you, gentlemen. The Court will stand in  
10 recess.

11           THE DEPUTY CLERK: Everyone rise.

12                                   (END OF COURT)

13                                   \*   \*   \*

14

15

16

17

18

19

20

21

22

23

24

25

## REPORTER 'S CERTIFICATE

1  
2  
3 I, Cathy Pepper, Certified Realtime Reporter, Registered  
4 Professional Reporter, Certified Court Reporter, Official Court  
5 Reporter, United States District Court, Eastern District of  
6 Louisiana, do hereby certify that the foregoing is a true and  
7 correct transcript, to the best of my ability and understanding,  
8 from the record of the proceedings in the above-entitled and  
9 numbered matter.

10  
11  
12 \_\_\_\_\_  
13 Cathy Pepper, CCR, RPR, CRR  
14 Official Court Reporter  
15 United States District Court  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25