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Newsroom

Logan on BP Liability in Financial Times

Dean David Logan explains how oil-spill claims being heard against BP in New Orleans might "shape the future of the oil and gas industry in the domestic waters of the U.S."

The *Financial Times* of London published an article today titled, "[Spill claims to test limits of BP's liability](#)" by legal correspondent Michael Peel"

12 August 2010: A swathe of Gulf of Mexico oil disaster lawsuits sent to a New Orleans court could have a multibillion-dollar impact on BP's finances and a wider effect on the offshore US energy industry, law experts claimed on Wednesday.

Judge Carl Barbier is likely to have to make a series of crucial early rulings over areas such as document disclosure and the scope of allegations that BP and other companies must defend, legal observers said.

The dispatch of the lawsuits to Mr Barbier by a federal panel of judges this week is a sign of the shift in focus from the Macondo oil well to the long courtroom battles ahead.



David Logan, professor at the Roger

Williams University school of law, said the gathering together of the lawsuits meant Mr Barbier would in effect decide "how close to the goal" claimants ranging from injured workers to restaurant owners would start their cases.

"It's certainly going to put one person at the centre of a series of decisions that to some extent might shape the future of the oil and gas industry in the domestic waters of the US."

The judge will be responsible for running the pre-trial proceedings in 77 lawsuits related to the explosion on the Deepwater Horizon rig, plus a likely 200 “tag-along” cases and the prospect of more to come. He will almost certainly have to make decisions on what documents the companies must reveal and on whether claims for types of economic damage can be bought, potentially setting precedents for liabilities faced by BP and energy multinationals involved in future disasters.

Mr Barbier, who was born in New Orleans and has spent his career in Louisiana, declined to comment.

The decision to group the cases and send them to New Orleans has highlighted the size of the stakes facing BP, the other companies and those who have launched claims against them. The result could be a piece of “super-litigation” of the kind seen in the Exxon Valdez oil spill, which led to a \$5bn (€3.9bn, £3.2bn) punitive damages award against Exxon, later cut by almost 90 per cent on appeal.

Mr Barbier’s appointment appears on the surface to be bad news for BP, which had tried to get the judge to recuse himself from the case because of his former holdings of bonds issued by Transocean, the Deepwater Horizon’s owner, and Halliburton, a contractor on the rig. Mr Barbier sold the holdings and declined to stand down on the grounds that the bonds did not represent an ownership interest, a decision backed by the Court of Appeals.

But Doug Kysar, a professor at Yale Law School, said Judge Barbier was not all bad news for oil companies, as he had ruled against some claimants in a lawsuit against the industry in the wake of hurricane Katrina in 2005. Some points raised then – such as the ability of fishermen to recover losses over fish they did not own – would probably crop up in the Deepwater Horizon litigation.

Prof Kysar said: “I’m not saying he was right or wrong to make those rulings; the point is simply that in the wake of Louisiana’s last disaster, he showed no sign of overreaching to help out victims.”

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