

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

CASE NO. 3:10cv141-MCR/MD

DEWEY DESTIN, an individual;  
and EDGEWATER BEACH OWNERS  
ASSOCIATION, INC., a Florida condominium  
owners association, on their own behalf  
and on behalf of all others similarly situated,

Plaintiffs,

vs.

BP, PLC; BP PRODUCTS NORTH AMERICA,  
INC.; BP AMERICA, INC.; BP EXPLORATION  
AND PRODUCTION, INC.; BP CORPORATION  
NORTH AMERICA, INC.; BP COMPANY NORTH  
AMERICA, INC.; TRANSOCEAN, LTD.;  
TRANSOCEAN OFFSHORE DEEPWATER  
DRILLING, INC.; TRANSOCEAN DEEPWATER, INC.;  
TRANSOCEAN HOLDINGS, INC.;  
HALLIBURTON ENERGY SERVICES, INC.;  
CAMERON INTERNATIONAL CORPORATION  
f/k/a COOPER CAMERON CORPORATION,  
ADARKO PETROLEUM CORPORATION;  
MOEX OFFSHORE 2007, LLC; and M-I, LLC,

Defendants.

**PLAINTIFFS' EMERGENCY MOTION FOR PRELIMINARY INJUNCTION  
AND INCORPORATED MEMORANDUM OF LAW**

Plaintiffs, pursuant to Fed. R. Civ. P. 65, move this Court for a preliminary injunction against Defendants BP, PLC; BP PRODUCTS NORTH AMERICA, INC.; and BP AMERICA, INC. (collectively "BP"),<sup>1</sup> to prevent BP from taking advantage of the residents of Okaloosa and Walton counties' immediate need for funds and attempting to mitigate its

losses by extinguishing disaster victims' legal claims through an inadequate, unduly cumbersome, and unconscionable claims procedure, which attempts to force claimants to surrender their legal claims or right to legal representation in order to obtain interim relief. Plaintiffs further move this Court to take specific preventive measures to ensure that the Defendants, in providing immediate, interim relief through their claims process, provide fair and efficient relief and do not engage in practices that would cause Plaintiffs, or members of the proposed Class, to surrender their legal claims, give up their right to representation, or any other unconscionable practice that would exacerbate the damages that the residents of Okaloosa and Walton counties have already suffered as a result of the Defendants' catastrophic oil spill in the Gulf of Mexico.

One of the Plaintiffs in this case, Edgewater Beach Owners Association ("Edgewater"), has already been a victim of this unconscionable claims process, which even Florida's Attorney General states is plagued by a lack of communication that is only "contributing to frustration and inhibiting efficiency of claims processing." (*See* Letter from Bill McCollum dated May 18, 2010, attached as Exhibit A.) When the President of Edgewater attempted to submit a claim under the claims process touted by BP in the media, she was turned away. Not only was she informed that her property value has not been decreased by the Deepwater disaster, but she was also told that because she had retained an attorney, BP would not accept a claim from her individually, or on behalf of Edgewater. BP now maintains a "list" of people who have brought legal action against it as a result of the tragic oil spill and refuses to provide the emergency, interim relief that it has promised to provide, to those who have sought to exercise their legal rights against BP.

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<sup>1</sup> Although Plaintiffs have amended their complaint to include additional defendants, in this Motion they only seek relief against the BP defendants.

Because BP has proven itself unable to address this harm in a fair, efficient, non-coercive, and non-discriminatory manner, Plaintiffs ask the Court to step in and ensure that the Defendants are not unduly taking advantage of the victims of the Deepwater disaster in an attempt to extinguish the victims' claims as quickly and cheaply as possible.

### **FACTUAL BACKGROUND**

1. On April 20, 2010 BP caused one of the worst oil spills in this country's history, when its mobile offshore drilling unit "Deepwater Horizon" exploded due to BP's own negligence. Since the explosion, hundreds of thousands of gallons of crude oil have been leaking every day into the Gulf of Mexico heading towards the coast of Florida and Louisiana. As the slick approaches the Florida coast, it threatens to destroy the way of life for thousands of people living in the communities in Okaloosa and Walton Counties.

2. This action was filed on May 4, 2010 as a result of the disaster [D.E. 1] to protect the immediate and ongoing harm to the citizens of Walton and Okaloosa counties in Florida, and to protect Florida's tourism industry.

3. Tourism in Florida is a \$60 billion a year industry and provides twenty-one percent of the state's total taxable sales. Employment in the tourism industry represents more than one million jobs. In 2008, tourism returned \$3.9 billion to Florida in tax revenues and generated \$65.2 billion in direct economic impact.

4. The harm posed by the disaster to the people and the coastline in Walton and Okaloosa counties is imminent. Because Florida, statewide, and specifically in Walton and Okaloosa counties, relies so heavily on tourism for its continued economic viability, the oil slick is an economic catastrophe. Individuals along the Gulf Coast, including the Plaintiffs, face the permanent loss of their livelihoods, their communities, and their way of life. Given

the permanent damage that the oil slick is inflicting, and will continue to inflict on the tourism industry, this loss will be difficult or impossible to recover from. Florida's tourism industry is reportedly expected to lose \$3 billion this year alone.

5. As a result of the disaster, Governor Charlie Crist already declared a State of Emergency in Walton and Okaloosa counties finding that this event threatens the State of Florida with a major disaster. (Exhibit B.)

6. The harms described in the Amended Complaint have already started to occur and are increasing every day. Resorts, hotels, and restaurants in this area are already losing tens of thousands of dollars in business and the Florida Gulf coastline is being threatened with irreparable damage, and yet still no formal preventive strategy is in place.

7. Plaintiffs are Mr. Dewey Destin Jr., a city councilman whose family founded the City of Destin in 1835. (*See* Aff. of Dewey Destin, Jr., Attached as Exhibit C at ¶2.) Mr. Destin owns two restaurants, Dewey Destin's on the Bay, and Dewey Destin's on the Harbor, and represents the interests of the people and business of Walton and Okaloosa counties. (*Id.* at ¶¶ 3-4.) The second Plaintiff is the Edgewater Beach Owners Association ("Edgewater"), a large owner of real estate on the Northwest Florida coast. (*See* Aff. of Suzanne Harris, attached as Exhibit D at ¶3.) Edgewater is a condominium complex with 175 units, 126 of which are rented out on a year-round basis to tourists visiting the beaches of South Walton County. (*Id.* at ¶¶ 3-4.) Together the Plaintiffs seek to protect against the harms to the business community that are already occurring in Walton and Okaloosa counties.

8. Suzanne Harris, the President of Edgewater, states that since the announcement of the oil spill, Edgewater has already incurred damages in the form of lost profits from the cancellations of already-booked vacation rentals. (*Id.* at ¶10.) Edgewater has suffered a 50%

decrease in profits for rentals as compared to those in the past two years. (*Id.* ¶¶10-11.) In addition to the cancellations, many of Edgewater’s regular guests have not made reservations this year and “complained of the fear of oil impacting their vacation at Edgewater.” (*Id.* at ¶12.) Despite offering incentives to guests, and the approach of the tourist season, Edgewater continues to face a grim reduction in revenue and profits. (*Id.* at ¶¶14-15.) Ms. Harris states that “if appropriate preventative and mitigation measures are not taken, the impact of the oil could doom the economic engine of tourism at Edgewater and in Walton County.” (*Id.* at ¶15.) Without the income from tourist property rentals, many of the Edgewater condominium association unit owners may be forced into foreclosure. (*Id.* at 16.)

9. Likewise, Mr. Destin states that due to the oil spill, the price of local seafood has “skyrocketed” and he is “uncertain whether to purchase food and supplies, or whether to hire employees for a tourist season that may not actually materialize.” (Exhibit C at ¶8.) Without the business from his tourist customers, Mr. Destin believes his business will likely fail. (*Id.*) Even before it has reached the shore, the oils slick threatens to destroy the businesses, livelihoods, and means of the Destin community to support their families. (*Id.* at ¶7.)

10. BP has publicly agreed to take responsibility for the oil spill emanating from the Deepwater Horizon explosion. Tony Hayward, Chief Executive Officer of BP stated: “We are the responsible party. We are going to clean this up, fully and completely. And we have said very clearly where there are legitimate claims for business interruption, then we will be good for them. . . . We are absolutely, as I said, going to take full responsibility for cleaning this up and we will honor legitimate claims.” See <http://www.youtube.com/watch?v=hF5hTfGibw8> (CNN television broadcast May 7, 2010)

(last visited May 11, 2010).<sup>2</sup> Thus, BP's obligations and liability to the individuals and businesses of coastal Okaloosa and Walton counties are not in dispute.

11. However, the only relief measures BP has currently agreed to provide is a claims process to provide immediate interim relief to those damaged by the oil catastrophe, which has been riddled with problems, inequities, and inefficiencies. Initially, BP sought to require claimants to release any and all claims in order to receive an interim payment. (*See* Plaintiff's Emergency Motion for Temporary Restraining Order [DE 2] in the BP case pending in the E.D. Louisiana, *Barisich v. BP*, 10-01316, attached as Exhibit E.) Although BP entered into a joint stipulation with the parties in *Barisich* stating that acceptance of an interim check would not constitute a waiver of any claims against BP, (*see* Joint Stipulation, *Barisich v. BP*, 10-01316 [DE 17], attached as Exhibit F.), that Defendants' would attempt such a tactic in the first place demonstrates that their motivation is not to fully compensate those who have been damaged by their wrongful conduct, but to extinguish the Plaintiffs' claims as quickly and cheaply as possible. The current lack of oversight within the claims process allows BP, the party responsible for creating the disaster in the first place, complete discretion to adjudicate the continued economic viability of Florida's coastal communities during the pendency of this lawsuit.

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<sup>2</sup> *See also* BP web page, *available at*: <http://www.bp.com/genericarticle.do?categoryId=9033654&contentId=7061984>.

"BP takes responsibility for responding to the Deepwater Horizon oil spill. We will clean it up. BP has established a robust process to manage claims resulting from the Deepwater Horizon incident.

BP will pay all necessary and appropriate clean-up costs.

BP is committed to pay legitimate and objectively verifiable claims for other loss and damage caused by the spill – this may include claims for assessment, mitigation and clean up of spilled oil, real property damage caused by the oil, personal injury caused by the spill, commercial losses including loss of earnings/profit and other losses as contemplated by applicable laws and regulations."

12. Furthermore, just days ago on May 17, 2010, when Ms. Harris attempted to make a monetary claim, in person, to the BP claim center in Fort Walton Beach, Florida (Okaloosa County) she was turned away. (*See* Exhibit D at ¶¶18.) The BP claims representative she spoke with first informed her that her property had not been reduced in value, and therefore BP was not accepting property owner claims for reduction in property value caused by the spill. (*Id.* at ¶ 19.) The representative then informed her that if she, or Edgewater, had retained an attorney she could not make a claim to BP through this process, and they could not even accept her claim information. (*Id.* at ¶20.) Moreover, the representative even told Ms. Harris that BP had a “list” of people who had sued BP, and that BP would not communicate with any person on the “list.” (*Id.* at 21.) When she inquired about claims for pending real estate sale transactions that were terminated as a result of the BP oil spill, she was told to come back “later.” (*Id.* at 22.)

13. Not only is the claims procedure discriminatory, but it is also extremely inefficient, and difficult for claimants to navigate. Although BP’s media campaign states that it will accept claims for: (1) bodily injury or illness; (2) property damage; and (3) loss of income, the process is difficult to navigate and BP is providing no clear answer concerning what types of claims are actually compensable and how victims go about being compensated. Even the Attorney General of Florida has been outspoken about the problems with the claims process, which stems in part from its lack of organization or transparency. The AG states: “Participants’ frustration seem[s] to stem from lack of upfront guidance about the claims procedure, while adjusters’ differing opinions were making them feel unfairly treated. BP’s commitment ‘to pay legitimate and objectively verifiable claims’ will be difficult to achieve

when claimants and potential claimants do not know what claims are legitimate or how to verify them.” (Exhibit A.)

14. Although BP earns billions of dollars in profits each year, it failed to invest sufficient resources to maintain, inspect, repair, and properly operate its facilities, including the Deepwater Horizon, all the while knowing that the product that the company handles is a toxic, dangerous, and often lethal, recipe for disaster. Simply put, Defendants knowingly cut corners to save money and keep revenue streams from the Deepwater Horizon flowing at the expense of appropriate safety precautions.

15. As a result of Defendants’ failure to protect the Plaintiffs, the Plaintiffs have already begun to suffer, and will continue to suffer irreparable damage to their businesses, communities, and way of life. What is worse, the disaster victims are unable to even act to protect themselves for fear of being “punished.” (See Exhibit D at ¶17.)<sup>3</sup> This Court must intervene to help take adequate steps to prevent the contamination, mitigate the damage that the spill has already caused, and allow a fair and ethical claims process for interim, emergency relief.

### **MEMORANDUM OF LAW**

#### **I. A Preliminary Injunction is Appropriate under Rule 65 of the Federal Rules of Civil Procedure to Prevent Irreparable Damage to the Plaintiffs**

Plaintiffs and their communities are threatened with the destruction of their businesses, their continued economic sustainability, and their way of life. Without an efficient and fair means of obtaining interim relief during the pendency of this lawsuit, many

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<sup>3</sup> For example, Plaintiffs, in the Amended Complaint, seek to erect barriers to protect the extremely narrow Destin Pass and numerous local bayous and tributaries that receive tidal flows from the Choctawhatchee Bay and the Gulf of Mexico.



of the Plaintiffs, and other potential Class members, along with their businesses, could face economic failure, bankruptcy, or foreclosure. Accordingly, the Court should prohibit BP from engaging in any tactics that would inhibit disaster victims' legal rights in any way (including forcing them to give up their legal claims, or their right to legal representation in order to obtain interim relief), and appoint a special master to oversee the claims process established by BP to provide victims of the Deepwater Horizon disaster with emergency, interim economic relief, and to ensure that BP does not prevent the disaster victims from engaging in any form of self-help permitted by state or federal law.<sup>4</sup> If the Court does not step in now, by the time full relief for their claims is provided, it will be too late.

Granting or denying a temporary restraining order or preliminary injunction under Federal Rule 65 rests in the sound discretion of the district court. *Carillon Importers, Ltd v. Frank Pesce Intern. Group Ltd*, 112 F.3d 1125, 1126 (11th Cir. 1997) (citing *United States v. Lambert*, 695 F.2d 536, 539 (11th Cir. 1983); *Johnson v. Radford*, 449 F.2d 115 (5th Cir. 1971)). The purpose of preliminary injunctive relief is to preserve the *status quo* between the parties and to prevent irreparable injury until the merits of the lawsuit can be reviewed. *All Care Nursing Serv.*, 887 F.2d at 1537; *United States v. Alabama*, 791 F.2d 1450, 1457 n.9 (11th Cir.1986). However, while the purpose of a preliminary injunction is to maintain the *status quo*, this does not prevent the court from “shap[ing] relief in a manner which protects the basic rights of the parties, even if in some cases it requires disturbing the status quo.” *Cox v. Nw. Airlines, Inc.*, 319 F. Supp. 92 (D. Minn. 1970) (citing *Unicorn Mgmt Corp. v. Koppers Co.*, 366 F.2d 199 (2nd Cir. 1966); *United States v. Barrows*, 404 F.2d 749, 752 (9th

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<sup>4</sup> The Court, pursuant to Rule 53(a)(1)(C) has the power to appoint a special master to “address pretrial and posttrial matters that cannot be effectively and timely addressed by an available district judge or magistrate judge of the district.” The appointment of a special master, like the grant of a preliminary injunction, lies within the

Cir. 1968)).

Accordingly, the district court must exercise its discretion to issue a preliminary injunction when the following four factors weigh in favor of issuing the injunction:

1. There is a substantial likelihood that plaintiff will prevail on the merits;
2. There exists a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted;
3. The threatened injury to plaintiff outweighs the threatened harm the injunction will cause the defendant; and
4. The granting of the preliminary injunction will not disserve the public interest.

*Winter v. Nat'l Resources Defense Counsel, Inc.*, 129 S. Ct. 365, 375 (2008); *CBS Broad., Inc. v. Echostar Commc'ns Corp.*, 265 F.3d 1193, 1200 (11th Cir. 2001); *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000). Here, because all of the relevant factors weigh in favor of issuing an injunction, the Court should immediately enter an Order: (1) prohibiting Defendants from engaging in any tactics through its claims process that would adversely affect disaster victims' legal rights (including forcing them to give up their legal claims, or their right to legal representation in order to obtain interim relief); and (2) appointing a special master to oversee BP's claims process, which is designed to provide emergency interim relief to the residents of Okaloosa and Walton counties who have been affected by the oil spill caused by the explosion of BP's Deepwater Horizon and to ensure that BP does not prevent the disaster victims from engaging in any form of self-help permitted by state or federal law.

***a. Plaintiffs are Likely to Prevail on the Merits.***

While in the normal case, the likelihood of success on the merits is often the most complicated and difficult prong of the preliminary injunction standard to satisfy, in this case,

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sound discretion of the trial court judge. *Johnson Control Sys., Inc. v. Phoenix Control Sys.*, 886 F.2d 1173, 1176 (9th Cir. 1989).

BP has essentially admitted liability, and therefore the Plaintiffs' likelihood of success on the merits can hardly be disputed. Tony Hayward, Chief Executive Officer of BP stated: "We are the responsible party. We are going to clean this up, fully and completely. And we have said very clearly where there are legitimate claims for business interruption, then we will be good for them . . . . We are absolutely, as I said, going to take full responsibility for cleaning this up and we will honor legitimate claims." See <http://www.youtube.com/watch?v=hF5hTfGibw8> (CNN television broadcast May 7, 2010) (last visited May 11, 2010). Thus, BP's obligations and liability to the individuals and businesses of coastal Okaloosa and Walton counties are not in dispute.

***b. Plaintiffs are Already Suffering, and will Continue to Suffer Irreparable Injury if the Injunction is not Granted.***

In order to qualify as irreparable harm, "the injury must be neither remote nor speculative, but actual and imminent." *Ne Fla. Chapter of Ass'n of Gen. Contractors v. Jacksonville*, 896 F.2d 1283, 1285 (11th Cir. 1990) *rev'd on standing grounds*, 508 U.S. 656 (1993). A party that "cannot be made whole by the payment of monetary damages alone" is irreparably harmed. See *ABC Charters, Inc., v. Bronson*, 591 F. Supp. 2d 1272, 1309 (S.D. Fla. 2008). While monetary loss in and of itself is not normally sufficient to constitute a showing of irreparable harm, where the "the loss of revenue in the interim may so devastate the [community] that the ability to sustain [itself] may be irretrievably lost," the "irreparable harm" prong is satisfied. *Sac & Fox Nation of Missouri v. LaFaver*, 905 F. Supp. 904, 907 (D. Kan. 1995); see also *Benfield, Inc. v. Moline*, 351 F. Supp. 2d 911, 918 (D. Minn. 2004) (finding irreparable harm where the plaintiffs would "likely lose valuable business relationships and good will."); *Rio Grande Cmty. Health Ctr., Inc. v. Rullan*, 397 F.3d 56, 76 (1st Cir. 2005) (finding that the threat of substantial loss of business and certain bankruptcy

qualified as the sort of irreparable harm needed to support a preliminary injunction); *Galvin v. N.Y. Racing Ass'n, Inc.*, 70 F. Supp. 2d 163, 170 (E.D.N.Y. 1998), *aff'd*, 166 F.3d 1200 (2d Cir. 1998) (“In the business context, irreparable harm may be established ‘where a party is threatened with the loss of a business.’”). Thus, “Plaintiffs are not required to demonstrate the complete and imminent destruction of their business to obtain a preliminary injunction. Irreparable harm means any serious injury that cannot be quantified, i.e. the party suffering the injury cannot be made whole by the payment of monetary damages alone.” *ABC Charters, Inc. v. Bronson*, 591 F. Supp. 2d 1272, 1309 (S.D. Fla. 2008). This requirement is more than satisfied in this case.

Here, Okaloosa and Walton counties derive their continued sustainability and existence from their vibrant tourism industry, an industry that estimates suggest will take a \$3 billion loss due to the damage expected to occur when the oil slick hits the Florida Gulf coast. The oil spill at issue in this case threatens to put an end to the counties’ predominate means of sustaining its communities, and “the ability to sustain [itself] may be irretrievably lost.” *Sac & Fox Nation of Missouri*, 905 F. Supp. at 907. Even before the poisonous sludge reaches the shoreline, the residents of costal Okaloosa and Walton counties are suffering damage as the stigma associated with the oil disaster has already begun to plague the Plaintiffs and adversely affect the profitability of their businesses. Edgewater has experienced rental cancellations, and drastically reduced rental profits, which, if continued, will force some of the condominium owners into foreclosure. (See Exhibit C at ¶¶10-12, 16.) Likewise, the costs associated with the operation of Mr. Destin’s businesses have “skyrocketed,” and without the influx of tourists to patronize his businesses, they also may not be able to survive. (See Exhibit B ¶8). The oil spill and its accompanying interruption of the tourism industry on

Florida's Gulf coast jeopardizes the community's way of living and threatens its continued viability. (*See Id.* at ¶6)

***c. The Threatened Injury to the Plaintiffs Outweighs the Threatened Harm the Injunction will cause the Defendants.***

Here, the threatened crushing business interruption throughout Plaintiffs' entire community outweighs any potential harm to BP. There is no harm to BP in ensuring that it does not engage in any unconscionable practices that would cause disaster victims to waive their legal rights in order to obtain interim relief. Moreover, any expense to the Defendants cannot be considered a "threatened harm" of the injunction, as BP's CEO has already stated: (1) "We are the responsible party"; (2) "We are going to clean this up, fully and completely"; and (3) "[W]here there are legitimate claims for business interruption, then we will be good for them." Accordingly, any money the Court orders BP to expend is simply money that BP has already acknowledged it is "responsible" for paying. *See Rio Grande Cmty. Health Ctr. v. Rullan*, 397 F.3d 56 (1st Cir. 2005) (finding the balance of hardships weighed in favor of granting the injunction where making an interim payment would not have a substantial impact on the Defendant financially).

***d. Issuing the Preliminary Injunction is in the Public Interest.***

The granting of a preliminary injunction, like other equitable remedies, depends "not only on a determination of legal rights and wrongs, but on such matters as laches, good (or bad) faith, and most important an appraisal of the public interest." *Maryland-Nat'l Capital Park & Planning Comm'n v. U.S. Postal Serv.*, 487 F.2d 1029 (D.C. Cir. 1973) (citing *Va. Ry., v. Sys. Fed. No. 40*, 300 U.S. 515, 550 (1937)). Here the simple fact is that due to the Defendants' failure to prevent against the dangers associated with deepwater drilling, the Plaintiffs in this action, and the other residents of Okaloosa and Walton counties face the

imminent destruction of their communities. This destruction threatens all facets of life in the affected areas, including: (1) harm to hundreds of species of fish, birds, and other wildlife in one of the planet's richest marine ecosystems; (2) harm to human health, due to the exposure to harmful toxins that necessarily accompanies the exposure to the dangerous toxins released by the spill; and (3) the above-mentioned economic disaster that will follow the destruction of the tourism industry along Florida's Gulf coast. Accordingly, the issuance of the injunction is necessary to protect the public from the irreparable harm likely to result from the Defendants' negligent and reckless behavior.

The *status quo* in Northwest Florida is untenable as it has BP, the "spiller" and party responsible for the Plaintiffs' damages in the first place, as the sole and ultimate decision maker as to the Plaintiffs' immediate, interim relief claims, with the state and federal governments as mere "overseers," which have no coercive power to require that BP does not act to deprive desperate disaster victims of their legal rights, and that BP administers the claims process in a fair and equitable manner. However, this Court can at least require BP to perform the work it is performing in a fair and efficient manner.

In order to prevent and mitigate the irreparable harm that these communities are already suffering, and will likely continue to suffer, the Court should enter an Order: (1) prohibiting Defendants from engaging in any tactics through their claims process that would adversely affect disaster victims' legal rights (including forcing them to give up their legal claims, or their right to legal representation in order to obtain interim relief); and (2) appointing a special master to oversee BP's claims process designed to provide emergency interim relief to the residents of Okaloosa and Walton counties who have been affected by the oil spill caused by the explosion of BP's Deepwater Horizon, and to ensure that BP does not

prevent the disaster victims from engaging in any form of self-help permitted by state or federal law. This will allow the residents of Okaloosa and Walton counties to avoid the destruction of their businesses, communities, and way of life during the pendency of this lawsuit by keeping them economically afloat and allowing them the resources to take the necessary measures to prevent or mitigate against further damage. Without this interim relief, any relief ultimately ordered by the Court will be meaningless because the communities will likely already be damaged beyond repair.

### **CONCLUSION**

**WHEREFORE**, Plaintiffs respectfully request that the Court grant the Plaintiffs' Motion for Preliminary Injunction, and enter an Order: (1) prohibiting Defendants from engaging in any tactics through its claims process that would adversely affect disaster victims' legal rights (including forcing them to give up their legal claims, or their right to legal representation in order to obtain interim relief); and (2) appointing a special master to oversee BP's claims process designed to provide emergency interim relief to the residents of Okaloosa and Walton counties who have been affected by the oil spill caused by the explosion of BP's Deepwater Horizon and to ensure that BP does not prevent the disaster victims from engaging in any form of self-help permitted by state or federal law.

Respectfully submitted this 21st day of May, 2010.

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**CERTIFICATE OF CONFERRAL**

Pursuant to Local Rule 7.1(B) for the Northern District of Florida, counsel for the Plaintiffs certifies that he conferred with counsel for the Defendants and the Defendants do not agree to the relief sought in this Motion.

By: s/ Brett E. von Borke  
Brett E. von Borke

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true copy of the foregoing has been filed with the Clerk of the Court using CM/ECF and served via transmission of Notices of Electronic generated by CM/ECF this 21st day of May, 2010.

By: s/ Brett E. von Borke  
Brett E. von Borke

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