

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA**

<b>SCOTT PARKER, SCOTTIE M. DUFRENE, JESSE LANDRY, LEON BRUNET</b>	<b>CIVIL ACTION NO.</b>
<b>VS.</b>	<b>MAGISTRATE:</b>
<b>NALCO COMPANY AND BP PRODUCTS NORTH AMERICA, INC. AND BP, P.L.C.</b>	<b>JUDGE:</b>

**CLASS ACTION COMPLAINT**

Plaintiffs, Scott Parker, Scottie M. Dufrene, Jesse Landry and Leon Brunet (“Plaintiffs”), individually and as representatives of the class defined herein (the “Class”), bring this action against Defendants identified below (“Defendants”), and aver as follows:

**INTRODUCTION**

1.

This is a class action, brought pursuant to Rule 23 of the Federal Rules of Civil Procedure, to recover damages suffered by Plaintiffs and the Class Members as a result of the oil spill and subsequent use of “Corexit® 9500” dispersant to “disperse” and sink the oil into the sea bed of the Gulf of Mexico.

**PARTIES**

2.

Plaintiff, Scott Parker, is a citizen of Louisiana, who resides within the Parish of Iberia, Louisiana. Plaintiff earns his livelihood as an oysterman in the Gulf of Mexico

and in the coastal zone (as that term is defined in 43 U.S.C. §1331(e)) (the “Coastal Zone”) and, as a result of the events described herein, he has suffered damages that are more fully described, *infra*.

Plaintiff, Scottie Dufrene, is a citizen of Louisiana, who resides within the Parish of Terrebonne, Louisiana. Plaintiff earns his livelihood as a shrimper in the Gulf of Mexico and in the Coastal Zone and, as a result of the events described herein, he has suffered damages that are more fully described, *infra*.

Plaintiff, Jesse Landry, is a citizen of Louisiana, who resides within the Parish of Lafourche, Louisiana. Plaintiff earns his livelihood as a shrimper in the Gulf of Mexico and in the Coastal Zone and, as a result of the events described herein, he has suffered damages that are more fully described, *infra*.

Plaintiff, Leon Brunet, is a citizen of Louisiana, who resides within the Parish of Terrebonne, Louisiana. Plaintiff earns his livelihood as a commercial fisherman in the Gulf of Mexico and in the Coastal Zone and, as a result of the events described herein, he has suffered damages that are more fully described, *infra*.

3.

Defendants herein are:

A. Nalco Company, (“Nalco”) a foreign corporation doing business in the State of Louisiana and within this district;

B. BP Products North America, Inc., a foreign corporation doing business in the State of Louisiana and within this district; and

C. B.P., P.L.C., a foreign corporation doing business in the State of Louisiana and within this district.

### **JURISDICTION AND VENUE**

4.

This Court has jurisdiction over this class action pursuant to 28 U.S.C. §1332 (d) (2) because the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs and it is a class action brought by citizens of a state that is different from the state where at least one of the Defendants is incorporated or does business.

5.

Prosecution of this action in this district is proper under 28 U.S.C. § 1391(a)(2) because all the events and actions giving rise to the claims asserted herein occurred in this district.

### **FACTUAL ALLEGATIONS**

6.

BP Products North America, Inc. and BP, P.L.C. (collectively “BP”) are holders of a lease granted by the Minerals Management Services (“MMS”). MMS allows BP to drill for oil and perform oil production-related operations at the site of the oil spill and on April 20, 2010, operated the oil well that is the source of the oil spill.

7.

Nalco Company is a foreign corporation that manufactures, sells and supplies to BP a dispersant chemical known as Corexit® 9500.

8.

The injuries and damages suffered by Plaintiffs and the Class Members were caused by Defendants' intentional use of the toxic chemical, Corexit® 9500, to disperse the oil and sink it to the sea bed of the Gulf of Mexico.

9.

Over one million gallons of the dispersant has been sprayed over the Gulf of Mexico and has caused a toxic chemical to be a permanent part of the sea bed and food chain in the bio structure in the Gulf of Mexico.

10.

Corexit® 9500 is four times more toxic than the oil itself causing an even more dangerous condition to exist in the Gulf of Mexico than if the oil was allowed to float to the shoreline.

11.

The dispersant was used deliberately in an attempt to lessen the financial burden of BP and to lessen the public reaction to the oil spill by forcing the oil to the bottom of the Gulf and thereby obviating the need for shoreline clean up.

12.

Corexit® 9500 has been illegal in the United Kingdom since 1998 when it was determined to be harmful to the food chain.

13.

The chemical in the Gulf will cause the Gulf to be contaminated into future years far beyond that which would have been caused if the oil were allowed to gather on the shoreline allowing it to be cleaned and permanently removed from the bio system.

14.

Plaintiffs bring this action on behalf of themselves and all others similarly situated, who are members of the following Class:

All Louisiana and Gulf Coast residents who live or work in or derive income from the Coastal Zone and who will suffer and have suffered from the deleterious effects of the dispersant, Corexit® 9500.

**CLASS ACTION ALLEGATIONS**

15.

A. Numerosity of the Class

The proposed Class is so numerous that joinder is impractical. The disposition of the claims asserted herein through this class action will be more efficient and will benefit the parties and the court.

16.

B. Predominance of Common Questions of Fact and Law

There is a well-defined community of interest in that the questions of law and fact common to the Class predominate over questions affecting only individual Class Members and include, but are not limited to

1. Whether defendants caused/contributed to the toxic poisoning of the Gulf of Mexico;
2. Whether Defendants' actions were negligent;
3. Whether Defendants' actions were intentional;
4. Whether the chemicals have caused irreversible damage to the Gulf and human health in the Gulf Coast region; and
5. The amount of damages Plaintiffs and the Class Members should receive in compensation.

17.

C. Typicality

Plaintiffs and the Class Members have suffered similar harm as a result of Defendants' actions.

18.

D. Adequacy of Representation

Plaintiffs will fairly and adequately represent and protect the interest of the Class Members because their interests do not conflict with the interests of the Class Members they seek to represent. Plaintiffs have no claims antagonistic to those of the Class Members. Plaintiffs have retained counsel competent and experienced in complex class actions and maritime and environmental litigation.

19.

E. Superiority

A class action is superior to other available methods for the fair and efficient adjudication of this litigation since individual litigation of the claims of all Class Members is impracticable. Even if every Class Member could afford individual litigation, the court system could not. It would be unduly burdensome to this Court in which individual litigation of thousands of cases would proceed. Individual litigation presents a potential for inconsistent or contradictory judgments and the prospect of a race for the courthouse and an inequitable allocation of recovery among those with equally meritorious claims. Individual litigation increases the expenses and delay to all parties and the court system in resolving the legal and factual issues common to all claims related to the Defendants' conduct alleged herein. By contrast, a class action presents far fewer management difficulties and provides the benefit of a single adjudication, economies of scale, and comprehensive supervision by a single court.

20.

The various claims asserted in the action are also certifiable under the provisions of Rules 23(b)(1) and/or 23(b)(3) of the Federal Rules of Civil Procedure because:

a. The prosecution of separate actions by thousands of individual Class Members would create a risk of inconsistent or varying adjudications with respect to individual Class Members, thus establishing incomparable standards for conduct for Defendants;

b. The prosecution of separate actions by individual Class Members would also create the risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other Class Members who are not parties to such adjudications and would substantially impair or impeded their ability to protect their interests; and

c. The questions of law or fact common to the Members of the Class predominate over any questions affecting only individual Members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

#### **CAUSE OF ACTION (NEGLIGENCE)**

21.

Plaintiffs, on behalf of themselves and the Class Members, repeat, reiterate and reallege each and every allegation set forth above with the same force and effect as if copied herein.

22.

The spraying of massive amounts of Corexit® 9500 on the oil spill in the Gulf of Mexico was caused by the negligence and intentional acts of all Defendants.

23.

Upon information and belief, Plaintiffs aver that the spraying of Corexit® 9500 was done by or allowed by all Defendants in the following regard:

a. Spraying a chemical more toxic than the oil itself;

- b. Spraying massive (1 million gallons) amounts of chemical on the Gulf of Mexico in an attempt to lessen their financial burden of cleaning the Gulf and removing the oil;
- c. Permanently altering the bio system in the Gulf of Mexico by introducing a toxin to the sea bed;
- d. Making and causing hundreds of cleanup workers to be sickened by the chemicals; and
- e. Other acts as will be proven subsequent to discovery and that will be shown at trial.

#### **JURY DEMAND**

Plaintiffs are entitled to and demand a trial by jury on all issues related herein.

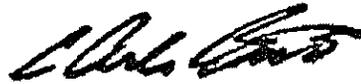
#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs and Class Members demand judgment against Defendants, jointly, severally and in solido, as follows:

- a. An order certifying the Class for the purpose of going forward with any one or all of the causes of action alleged herein; appointing Plaintiffs as Class Representatives; and appointing undersigned counsel as counsel for the Class;
- b. Economic and compensatory damages in amounts to be determined at trial, but not less than the \$5,000,000.00 required by the Class Action Fairness Act which establishes one of this Court's bases of jurisdiction to hear this case;
- c. Punitive damages;

- d. Pre-judgment and post-judgment interest at the maximum rate allowable by law;
- e. Attorney's fees and costs of litigation;
- f. Such other and further relief available under all applicable state and federal laws and any relief the Court deems just and appropriate.

Respectfully submitted,



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**DEFENDANTS WILL  
RECEIVE WAIVERS  
OF SUMMONS**