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Louisiana Realtors  
Deepwater Horizon Blow-Out/BP Oil Spill (“Deepwater Horizon Disaster”):  
Recovery for Loss through the Gulf Coast Claims Facility and Litigation

## **Realtors Now Eligible for relief Gulf Coast Claim Facility Fund.**

### **What is the GCCF?**

- BP has been identified as the “responsible party” under federal law for the Deepwater Horizon Disaster and as such is required to establish a procedure to *settle* claims outside of litigation.
- BP established the Gulf Coast Claims Facility (“GCCF”) to facilitate the claims process, and hired Ken Feinberg (and his law firm) to administer claims through the GCCF.
- On February 2, 2011, a federal judge ruled that the GCCF, Mr. Feinberg and his law firm are not “neutral” or “independent” of BP, and that in all communications, the GCCF, Mr. Feinberg and his firm must disclose that they are acting “**for and on behalf of BP.**”

### **Filing a Claim as a Realtor under the GCCF:**

- Originally, the GCCF barred realtors and real estate professionals from pursuing lost profits of income from the GCCF. However, **beginning mid-February 2011**, the GCCF changed on realtor claims. Real estate professionals are now eligible to file for **Interim Relief or Final Relief.**
- Under GCCF, there is no “proximity” requirement – that means that if you suffered lost profits or loss of income due to the oil spill, you are eligible to seek recovery through GCCF regardless of your location. However, Realtors and real estate professionals must show that Lost Profits or Loss of Income were due to the Deepwater Horizon Disaster.
- **Interim claims** are for lost profits or lost income *for the past*, and are considered on a quarterly basis. If an award is offered you do not have to sign a release to accept the funds.
- **Final claims** are for **total** damages (past and **future** lost profits or loss of income). Once you make a Final Claim, GCCF has 90 days to pay in full, pay in part, or deny your claim. If you choose to accept the final settlement offer you are required to sign a release. If you reject the final settlement offer you are then eligible to file a lawsuit against BP.
- In general, you must submit your claim, along with supporting documentation, to the GCCF ***before you can sue BP in Court.*** This is called “presentment,” which is a legal requirement under federal law (the Oil Pollution Act) prior to one being able to sue BP in court for damages.
- The presentment requirement **does not apply to other defendants**, including Transocean (the owner of the Deepwater Horizon rig), Halliburton (the contractor who provided the cementing job), and others. Thus, you can pursue recovery in Court against these Defendants.

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### Litigation – Key Concepts to Understand.

- If you are not made whole by BP through the GCCF Final Claims process, you can file a lawsuit. Your lawsuit will be heard by Judge Barbier in federal court in New Orleans.
- Again, you do not have to go through the GCCF to file a claim in court against any other defendant which may be liable to you for your damages, such as Transocean (owner of the rig) and Halliburton (contractor who provided the cementing job).
- **All** cases arising from the Deepwater Horizon Disaster, regardless in which state or area a claimant resides or suffered damages have been transferred to and will be heard by Judge Barbier in New Orleans Federal Court for the Eastern District of Louisiana, pursuant to “Multi-District Litigation”(“MDL”) federal rules. **THIS IS NOT A CLASS ACTION AND ALL CASES WILL BE TRIED INDEPENDENTLY.** An MDL is a mechanism by courts to provide greater efficiency in case management and uniformity in decisions.
- The MDL is guided and managed by a “Plaintiffs’ Steering Committee” and a “Defendants’ Steering Committee” Judge Barbier selected 15 attorneys across the country to serve on the Plaintiffs’ Steering Committee, which are charged with representing the interests of all Plaintiffs who have filed in Court.
- Within the MDL, Judge Barbier then established an Executive Committee (EC), comprised of 4 people.

### Important Dates and Deadlines

- **April 20, 2011 - Deadline to file a claim against Transocean.**
  - **What is the deadline about?** Transocean, the owner of the Deepwater Horizon rig, has filed an action in federal court to limit its liability (or what it is responsible to pay) related to the Oil Spill to \$27 million dollars.
  - **How does this affect me?** If you have a loss of earning, business loss, or other economic loss from the oil spill you have rights that could be impacted by the result of the limitation proceeding.
  - More information about the April 20 deadline in on the Court approved website at [www.OilSpillCourtCase.com](http://www.OilSpillCourtCase.com)
- **July 2012 – first trial scheduled in the MDL for losses sustained as a result of the Deepwater Horizon Disaster**
- **August 22, 2013 - Deadline to file a Final Claim with GCCF:** You may submit a Final Payment Claim at any time prior to the close of the GCCF Program on August 22, 2013
- **Deadline to sue BP under the Oil Pollution Act: “Three years after a loss is reasonably discoverable with the exercise of due care.”** OPA §1017(f).

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### **Recommended Two-Step Approach to the Deepwater Horizon Oil Spill Litigation**

**1. Prepare and submit final claims to Gulf Coast Claims Facility for Payment by BP.**

You do not have to have an attorney to file a claim. However, if you feel that you need the assistance of an attorney, you should contact your lawyer, if you have one, or seek experienced legal representation. You should request that counsel prepare a package of supporting materials and submit your claim. You should also request a legal analysis and evaluation of all of your damages, including future damages to have a meaningful understanding of the value of your claim. .

**2. File a lawsuit against Transocean, Halliburton, Cameron, and others.** Step one does not apply to entities other than BP. These parties do not pay Final claims submitted to the GCCF and must be sued if a claimant seeks to recover damages from these companies. **The deadline to join the Limitation Action against Transocean is April 20, 2011.**

The above information was prepared with assistance from the law firm of Baron & Budd. <http://baronandbudd.com> at the request of Louisiana REALTORS®. **If you have any further questions, please contact Scott Johnson at 800-266-8538.**