Appeals Court Sides With BP

Kevin McGill & Michael Kunzelman, AP

A federal appeals court has revived BP's claims that a judge's interpretation of a settlement over its 2010 oil spill in the Gulf of Mexico could force the company to pay billions of dollars for bogus or inflated claims by businesses. A ruling by a divided three-judge panel of the 5th U.S. Circuit Court of Appeals threw out U.S. District Judge Carl Barbier's rulings on the dispute between BP and attorneys who brokered the multibillion-dollar settlement in 2012. The panel sent the case back to Barbier with an order that he craft a "narrowly-tailored injunction that allows the time necessary for deliberate reconsideration of these significant issues."

BP argued that Barbier and court-appointed claims administrator Patrick Juneau misinterpreted terms of the settlement. Plaintiffs' lawyers countered that BP undervalued the settlement and underestimated how many claimants would qualify for payments. In the panel's majority opinion, Judge Edith Brown Clement said BP has consistently argued that the settlement's complex formula for compensating businesses was intended to cover "real economic losses, not artificial losses that appear only from the timing of cash flows. The interests of individuals who may be reaping windfall recoveries because of an inappropriate interpretation of the Settlement Agreement and those who could never have recovered in individual suits for failure to show causation are not outweighed by the potential loss to a company and its public shareholders of hundreds of millions of dollars of unrecoverable awards," Clement wrote.

Judge Leslie Southwick wrote a concurring opinion. Judge James Dennis wrote a partial dissent, largely disagreeing with the other two. "Because BP has not satisfied its heavy burden of showing that a change in circumstances or law warranted the modifications it sought, the district court correctly affirmed the Administrator's decision rejecting BP's argument and actions to modify the agreement," Dennis wrote. Clement said Barbier had no authority to approve the settlement of a class that included members who sustained losses unrelated to the spill and or didn't suffer any losses at all, as BP alleges. The settlement is "unlawful" if Juneau is interpreting it to include such claimants, she wrote.

"Why would BP pay to resolve claims that cannot be plead?" her opinon asks. "The myth of 'global peace' through payment of admittedly non-spill-related claims is a legal nullity that cannot remedy this deficiency. There is no need to secure peace with those with whom one is not at war." Clement concluded Barbier should craft an injunction that ensures claims for losses directly resulting from the Deepwater Horizon disaster continue to be paid, while those that didn't are not compensated "until this case is fully heard and decided through the judicial process."

BP spokesman Geoff Morrell said the company is "extremely pleased" with the ruling. He added that it "affirms what BP has been saying since the beginning: claimants should not be paid for fictitious or wholly non-existent losses. We are

gratified that the systematic payment of such claims by the claims administrator must now come to an end," Morrell said in a statement.

The April 2010 blowout of BP's Macondo well off the Louisiana coast triggered an explosion that killed 11 workers on the Deepwater Horizon drilling rig and led to millions of gallons of oil spilling into the Gulf. Shortly after the disaster, BP agreed to create a $20 billion compensation fund that was administered at first by the Gulf Coast Claims Facility, led by attorney Kenneth Feinberg. After the settlement was announced last year, Barbier appointed Juneau to take over the process of evaluating and paying claims.

The settlement doesn't have a cap, but BP initially estimated that it would pay $7.8 billion to resolve the private claims. Later, the company said it no longer could give a reliable estimate for how much the deal will cost. Lead plaintiffs' lawyers Steve Herman and Jim Roy said they were pleased that "the vast majority of class members will continue to be paid in a timely and expeditious manner. "We look forward to working with the Claims Administrator and the Court to determine the best way to get the affected claims processed and paid as soon as possible," they said in an emailed statement.

Juneau said he is pleased that the 5th Circuit addressed the issue. "As the court-appointed Claims Administrator, it is my job to implement this Settlement Agreement as directed by the Court. This is what we will do," he said in a statement.

Source URL (retrieved on *03/14/2014 - 12:37am*):
http://www.chem.info/news/2013/10/appeals-court-sides-bp?qt-most_popular=1