

Caution Advised when Making Legal Decisions Relating to Damages from Deepwater Horizon Oil Spill

Since the explosion on the Deepwater Horizon oil rig, Gulf Coast residents have been the targets of aggressive advertising campaigns by law firms seeking clients for litigation related to the oil spill. Thomas Ruppert Esq, the Coastal Planning Specialist with the [Florida Sea Grant College Program](#), has compiled a useful advisory for Gulf residents considering legal action against BP.



Although Gulf Coast residents are entitled to compensation from BP and other responsible parties for certain losses, claimants should exercise caution to ensure initial actions do not affect future legal rights. You do not need to be in a hurry, because by law you have at least three years to file a claim. Taking time to weigh options carefully before acting will not result in lost legal rights. Acting hastily could limit your ability to secure temporary financial assistance.

Things every Florida resident should know:

1) Anyone who has suffered damages to property or business due to the oil spill may seek compensation directly from BP. You may do this without the assistance of a lawyer by calling BP's claims line at 1-800-440-0858, or by visiting a local BP claims office in your area, if available. Florida residents may apply at the online claims submission page from BP's Florida Gulf Response Web site at www.floridagulfresponse.com.

2) Participating in any lawsuit against BP, such as a class-action suit, will likely prevent you from receiving immediate or short-term compensation.

Some claimants are already receiving short-term compensation from BP, but BP is unlikely to consider your claim if you are a part of a lawsuit against them. It should also be noted that accepting payment now does not prevent you from receiving temporary or short-term compensation from BP in the future.

3) There is a federal backup to the BP claims process.

BP has 90 days to respond to your claim, but if it fails to process your claim in that time or denies it, you have a right to seek payment from the Oil Spill Liability Trust Fund. Claims must be submitted to the Coast Guard's National Pollution Funds Center (NPFC) (<http://www.uscg.mil/npfc/Claims/default.asp>).

You have three years from the date of the incident to file a claim with the federal Trust Fund. If you accept money, you cannot later file a lawsuit against any party to recover costs or damages which were the subject of the compensated claim. If payment is received from another source, such as insurance, you must reimburse the Fund. Currently there is a \$1-billion cap on expenditures from the trust fund per incident. The Funds Center processes claims in the order they are received.

4) If you choose to sue BP instead of using BP's claims process, Florida law gives you four years, not just three, from the date of the harm to file suit.

Use this time to compile your records, document losses, and learn more about your situation and your legal rights. Be certain to preserve all possible evidence of your damages, including photos, financial records, cancellations, or any other evidence of loss of work or income as well as activities you take to minimize your losses.

5) There are rules that govern how lawyers may solicit you for your business.

Generally, a lawyer, or lawyer’s representative, may not contact you to solicit employment *in person or by telephone*, unless you have previously contacted the law firm.

The rules vary, however, for written communication. Attorneys may send you an *unsolicited* email or letter if two conditions are met. First, the material must disclose one or more actual office locations of the lawyer who will perform the services advertised. Second, it must clearly be marked as an advertisement. For an email, this means the subject line must begin “legal advertisement.” Printed material must bear the word “advertisement” in red ink. Attorneys may advertise on television and radio, but only attorneys licensed in Florida may file lawsuits in Florida. If you believe you have been improperly solicited by a lawyer, you should report it immediately by contacting the Attorney/Consumer Assistance Program (ACAP) at 1-866-352-0707.

6) Once you retain a lawyer, BP is not permitted to contact you directly. BP is required to only communicate with your attorney unless your attorney, in writing, authorizes BP to communicate directly with you.

7) Carefully read all accompanying documents before you accept payment from BP for a damage claim.

If you have applied for immediate damages from BP, you need not turn down any offer of money, but if the forms you sign when you receive the money contain language releasing BP from any further liability, this may prevent you from seeking future compensation. If you are asked to sign anything you do not fully and clearly understand, you should consult your own attorney. Your attorney should review all documents prior to signing to ensure you are not giving up future rights in return for what you view as only partial payment for all the claims you may eventually have. Some attorneys advise writing “with reservations” just above where you countersign the check, especially if you accept a check without signing any other papers and you do not view the payment as full payment for all your damages. It could help in your claim should BP assert that you accepted the check as complete payment. You should also keep a copy of both sides of the signed check for your records.

8) If you need immediate legal advice, seek attorney referrals from trusted individuals.

Optionally, the Florida Bar Lawyer Referral Service offers referral for a slight charge. That number is 1-800-342-8011. You can also check the Florida Bar Association’s attorney online directory, <http://www.floridabar.org>. Select “Public Information” on the left tool bar and then choose “Find a Lawyer”.

9) Don’t be influenced by stories you hear about the Exxon Valdez oil spill.

You may hear a lot about the \$2.5 billion in damages a jury awarded to injured parties following the Exxon Valdez spill. That verdict, however, did not stand, for reasons that extend beyond the scope of this advisory, and was reduced to \$507.5 million. While this may sound large, Exxon did not begin writing compensation checks until November 2009, some 20 years after the original spill. Some of the plaintiffs received less than \$100 in punitive damages.

The key point is that any award you might receive from a lawsuit would likely not come for many years, could be very small, and would almost certainly prevent you from receiving short-term compensation for your actual damages.

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