



FLORIDA RESTAURANT & LODGING ASSOCIATION

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Subject: BP Oil Claims – FRLA Takes Legal Action

Dear FRLA Members:

Many of you have seen your bookings cancelled and tables sitting empty during a season when tourism should be booming, all resulting from the *Deepwater Horizon* oil rig explosion in April. As you know, our Association believed it could avoid litigation, hoping that the BP claims process would fairly and fully compensate our collective losses.

But as the BP claims process denied requests for emergency payments and/or paid merely pennies on the dollar in interim payments to our members, **we realized we had to seek legal counsel now to protect our membership and the future of Florida's tourism.**

As we considered appropriate legal counsel, we focused on the fact that we are a membership of multiple types of businesses, varying by issues such as size, client, location and seasonal interest. While the damages sustained by each of our members might be diverse in scope and amount, we have considerable commonality among us when it comes to calculating the full range and longevity of our damages. **When interviewing several well respected and capable law firms to determine their understanding of our current crisis, we considered:**

- Their creativity in mapping out our obvious damages (cancellations) and less obvious damages (lost profits today that take away revenue for planned renovation and/or improvements resulting in future lost bookings)
- Their ability to fund this expensive litigation
- The size of their legal and support staff
- Their relationships with the Gulf Coast Compensation Fund ("GCCF") Administrator Kenneth Feinberg and the attorneys representing the various potential defendants in anticipated litigation, and
- Their approaches to helping our membership recover damages resulting from the oil spill.

We are pleased to inform you that we chose a consortium of three firms that have a long history of working together on behalf of individuals and businesses injured by a common event. The firms are **Weitz & Luxenberg, PC, Levin Papantonio, PA, and Cooney & Conway, PC.** All three firms are well known for complex and mass tort litigation and for litigating against the largest corporations in the world. They have pledged to work together for us to obtain the best recovery available

Information on the firms is at the end of this letter, and on our website at www.FRLA.org.

2010 EXECUTIVE COMMITTEE

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As you may know, Ken Feinberg is taking over the BP claims process on Monday, August 23. Here is important information on taking the next steps in protecting your interests.

STEP ONE: If you have previously submitted an interim or final claim to the BP fund, and regardless of whether you were paid by BP and/or received a claims number, **you must resubmit your claim to the GCCF**. The BP claims fund will not forward your materials or claims submission to the GCCF.

While at first that might seem unduly burdensome, I believe this situation presents an opportunity if you opt to retain the law firms we recommend because the firms will submit the claim for you. They will make sure you submit the documentation that situates you best to receive maximum compensation and they will approach Feinberg on behalf of our membership as a group, in addition to individually, therefore giving us a louder voice than we would have if we don't work together as a group.

STEP TWO: Time is of the essence. **If you wish to retain counsel please call or email our firm immediately** so we can get our claims to Feinberg early and en masse. All cases will go through Weitz & Luxenberg and your inquiries should be made directly to them. It will be one retainer agreement for the three firms.

Phone: Angel Herstlet, 212-558-5925. All calls will be returned within 24-hours
Email: rgreenwald@weitzlux.com; cmarshall@weitzlux.com; or lvayner@weitzlux.com. Please type on the subject line: **"FRLA Legal Counsel Request"**, followed by the name of your business. That way the firm will be sure to maintain your contact information with other FRLA members.

You do not have to pay any money up front. The firms charge a contingency fee at the end of the claims process or litigation, wherever you prevail. Their fee is very fair; while attorneys in Florida are permitted to seek up to a 40% contingency fee, these firms are charging 15% of your recovery in the interim claims process, 20% for your final settlement if you settle with the GCCF and 25% if you recover through litigation.

Mr. Feinberg has stated he will make decisions regarding interim payments within 2 days of receiving a claim by an individual and 7 days of receiving a claim from a business, and as stated above he will begin to process claims on Monday, August 23rd. Thus, the sooner you retain counsel the sooner you will be better positioned to receive compensation.

STEP THREE: **Once you retain the firms, they will contact you immediately to discuss your business losses and the paperwork you will need to gather so that they can submit an interim claim on your behalf.**

That documentation will vary depending on your business type and the nature of your losses. The staff at the firms is well versed in the documentation the BP claims fund required for interim payments, and many of the claims adjustors that worked for BP claims process will be working for the GCCF. The firms' relationship with Mr. Feinberg also means they will be able to get a quick turn around when questions arise regarding claims.

Further, the firms have a well established system in place for submitting claims and, because of this system, **they are typically able to review and turn around your materials for delivery to the GCCF within 48 hours.**

As you consider your next steps, I want to share with you where we believe Mr. Feinberg stands on certain issues now, as he has not necessarily been consistent regarding what businesses will and will not be entitled to payments in the GCCF. He made it clear that he will evaluate claims based on three key factors: (1) proximity to the beach; (2) dependence on natural resources; and (3) the nature of the industry.

Given these three factors, and what we believe is Mr. Feinberg's lack of full appreciation of the scope and extent of damages to our industry throughout Florida, and especially on the Gulf coast, it is important for us to work together as a group to bring consistency to the process of recovering our losses through the GCCF and/or litigation.

If you decide to hire our legal counsel, please be sure to contact them *before* you submit your information to the GCCF so that they are able to present the strongest and best claim to Mr. Feinberg and will have the opportunity to show Mr. Feinberg the full breadth of our Association members' losses.

As I am sure you all realize, if we have one voice speaking on behalf of most or all of us, our voices will be heard much louder and the full extent of our injuries will be better understood and appreciated by Feinberg than if we proceed individually and without consensus. The law firms stand ready to approach Mr. Feinberg on our behalf, and they plan to begin that process when they receive the first group of claimants from our Association.

Options: Two Tracks – File Claim and/or File a Lawsuit ASAP

Last, while the law firms will explain their strategy to you if you decide to contact them, I want to mention here briefly that they believe our strongest position is to proceed immediately on two tracks:

Track One: File a claim with the GCCF and

Track Two: File a lawsuit in the Northern District of Florida.

They will seek recoveries from the GCCF on your behalf because, if offers are just and fair, you will receive compensation faster than you would through litigation. Also, having the litigation filed keeps pressure on the GCCF to evaluate your claims fairly because you have the fall-back of the courts if you are unsatisfied with the Fund's offer. And if we have to litigate these cases in the courts, another reason we chose the consortium of these law firms is the fine reputation of Levin Papantonio in this State.

Even though all lawsuits filed against BP and the other responsible parties for the *Deepwater Horizon* explosion, such as Halliburton, Transocean and Cameron, will be reassigned to Judge Barbier in the Eastern District of Louisiana (New Orleans), including our cases when we file them, our cases will not be tried before Judge Barbier but instead will be sent back to the Florida courts for trial. No firm has a better reputation in our State for litigating on behalf of plaintiffs than does Levin Papantonio.

Finally, I want to share that the firms are optimistic that this two-track approach could result in you obtaining recoveries in a shorter period of time. The GCCF track, if the settlement offers accurately reflect our losses, presents an opportunity to seek full and fair compensation without having to wait for litigation and trial.

You will have the option along the two-track process at any time to settle with the GCCF or to proceed with litigation, and the law firms are well positioned and prepared to provide the best representation along both tracks.

While I wish it were under different circumstances, I look forward to working with you to obtain the recoveries we need and deserve as a result of the oil spill and its lingering impacts, including public perception that the oil spill has made the Florida Gulf coast an undesirable location for tourism and business travel.

Sincerely,
Carol Dover

Law Firms Background & Experience

Weitz & Luxenberg

With its principal office in New York and additional offices in New Jersey and California, they have over 70 attorneys and a support staff of approximately 300. It was founded in 1986 by Perry Weitz, who is one of the most respected and experienced plaintiffs' trial attorneys in the country. Of particular importance is Perry's relationship with Ken Feinberg; they have worked together on large scale litigations for over 20 years and that history resulted in Perry and his firm heading a small committee of law firms negotiating the interim/emergency payment claims protocol on behalf of victims of the oil spill. No attorney in the country has a longer and closer working relationship with, and thus better access to, Ken Feinberg than does Perry.

Perry's partner, Rob Gordon, is the firm's chief trial attorney, having tried over 70 cases in his distinguished legal career. Robin Greenwald heads the firm's environmental tort unit, and she has spent her entire 25+ years as a litigator advocating for the environment and victims of pollution, many of those years as a federal environmental prosecutor. Perry, Rob and Robin were the 2009 Finalist for Public Justice Trial Lawyer of the Year Award.

www.WeitzLux.com

Levin Papantonio

This law firm probably needs no introduction in our State, as Fred Levin, the firm's founder, is an icon of the Florida trial bar. In 1999 Fred was named the Best Civil Litigator in Florida by the National Law Journal, and that same year the University of Florida Law School was renamed the Fredric G. Levin College of Law. Fred's partner, Mike Papantonio, is the Firm's chief trial attorney, is a nationally syndicated radio talk show host and was a 2007 Finalist for the Public Justice Trial Lawyer of the Year Award. www.LevinLaw.com

Cooney & Conway

Founded in 1958, is a Chicago based firm with over 20 attorneys and 100 support staff. John Cooney, the firm's managing partner, is recognized throughout the country for his leadership in plaintiffs' mass tort litigation. John also has worked with Ken Feinberg for 20+ years on multiple large litigations. John also was a finalist for the Public Justice Trial Lawyer of the Year Award. His partner, Bill Fahey, is the Chief of the Firm's mass tort department, who has tried to verdict or negotiated settlements in excess of \$3 billion. www.CooneyConway.com