

THE **RECORDER**



An aerial photo shows floating barriers known as booms trying to stop further incursion into the Wetlands Talbert Marsh after an oil spill in Huntington Beach, California, on Oct. 4, 2021. A major oil spill off the coast of Southern California fouled popular beaches and killed wildlife while crews scrambled to contain the crude before it spread further into protected wetlands. Photo: Ringo H.W. Chiu/AP

NEWS

3 Law Firms Join Forces for Leadership Bid in Orange County Oil Spill Class Actions

The attorneys seeking appointment have decades of experience and wins totaling billions of dollars.

October 28, 2021 at 06:47 PM **Meghann M. Cuniff**

Three prominent plaintiffs firms have banded together to seek control of the proposed class actions filed over the Orange County oil spill.

Cotchett, Pitre & McCarthy; Aitken Aitken Cohn; and Bentley & More want their cases combined and their firms appointed interim co-lead counsel for five proposed classes, the first major power grab in a flurry of lawsuits that include lawyers across California and beyond.

The firms sent copies of their motion, filed Thursday in the Central District of California, to counsel in nearly a dozen other lawsuits filed against Texas-based Amplify Energy Corp. as a “courtesy,” according to the filing. They’re supported by two attorneys who’ve filed their own cases, with Francis Bottini of Bottini & Bottini Inc. in La Jolla and Paul Matiasic of The Matiasic Firm in San Francisco submitting declarations attesting to the firms’ experience.

“Each firm alone has substantial experience handling class action lawsuits and relevant complex matters,” both declarations state. “Together they have more than sufficient experience to serve in this role.”

The motion is an attempt to edge out firms such as Lieff Cabraser Heimann & Bernstein and Cappello & Noël, which led class actions over the 2015 Santa Barbara oil spill and have proposed class actions pending over the Orange County spill.

It proposes classes for commercial ocean and beach activities, commercial fishing, commercial sea operations, general commercial and homeowner and residents. That covers most of the proposed classes in the other lawsuits, though The Tidrick Law Firm also has a proposed

class for children who as of Oct. 1 lived within 20 miles of a specified coastal geographic region.

Cappello & Noël partner Lawrence Conlan told Law.com his firm will probably be making its own leadership bid and believes they can proceed without conflicting with the other litigation.

Their complaint proposes classes for real property owners, and Conlan said Thursday they're considering one for fishermen as well.

"We haven't committed to anything at this point. We're obviously still trying to watch what's happening down there as well," Conlan said.

Publicly reported on Oct. 2, the spill closed beaches, businesses and events, with the first known plaintiff a DJ who lost work because of it.

Thursday's motion indicates more plaintiffs could be on the horizon, as lawyers "continue to meet with potential plaintiffs."

"Investigations are ongoing, making appointment of interim class counsel both timely and advantageous," according to the motion.

The firms seeking leadership appointments have decades of experiences and billions of dollars in class actions wins and personal injury settlements.

Aitken Aitken Cohn founder Wylie Aitken was co-lead counsel in a \$219 million settlement in 2013 with Wells Fargo and Bank of New York Mellon, and he was national liaison counsel in multidistrict litigation over Toyota's unintended acceleration issue that settled for \$1.63 billion.

Greg Bentley, co-founder of Bentley & More, is class counsel in a breach of contract case against the CalPERS retirement system that currently has a proposed settlement of \$2.7 billion. He also represented homeowners in an eight-figure, confidential settlement related to insurance coverage over the California wildfires and has a list of multimillion-dollar personal injury verdicts.

Cotchett partner Gary Praglin was co-lead counsel in the class action against PG&E over groundwater contamination that settled for \$333 million and was the basis for the movie “Erin Brockovich.” He also was on the plaintiffs’ steering committee for the class action over gas leaks by SoCalGas and Sempra Energy, which settled last month for \$1.8 billion.

While Cotchett is based in San Francisco, Aitken and Bentley are in Santa Ana and Newport Beach. That locality “allowed them all to spend extensive time on the ground in Huntington Beach, Newport Beach, Laguna Beach, Dana Point, and other beach cities.”

“Plaintiffs’ counsel have been and will continue to be able to connect to the communities they represent, meet with plaintiffs in person, and gain first-hand understanding of the damage caused by the oil spill,” according to the motion.

The motion also references the fact that Cotchett partner Pete McClosky founded and co-chaired the first Earth Day in 1970.

The oil spill cases are before U.S. District Judge David Carter in the Central District of California’s Southern Division in Santa Ana. A hearing on the motion for consolidation and leadership appointment is tentatively scheduled for Nov. 15.