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## Analysis: BP's spill clean-up now shifts to the lawyers

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By Tom Hals

WILMINGTON, Delaware (Reuters) - As BP Plc works on plugging up its blown-out oil well in the Gulf of Mexico, the clean-up is shifting from the engineers to the lawyers.

The legal cases against BP and others are only beginning, and lawyers involved predict the ultimate cost may exceed the \$20 billion the company has promised for a claims fund.

A federal panel named a judge on Tuesday who will oversee hundreds of lawsuits brought by injured rig workers, fishermen, and hotel owners, setting in motion one of the biggest legal cases in U.S. history.

Progress on permanently capping the damaged well may have helped to boost the defense of BP and other defendants, including Transocean Ltd, Halliburton Co, Anadarko Petroleum Corp, Mitsui & Co and Cameron International Corp.

BP is drilling a relief well that is on track to permanently shut down the Deepwater Horizon well this week. Staunching the world's worst offshore oil spill at least prevents a fight over how much of the fuel might still pour into the Gulf.

"It does sort of bring a closure to the event," said Richard Nagareda, a professor at Vanderbilt University School of Law in Nashville, Tennessee. "We can now start to assess the long-term consequences of the spill."

About 300 lawsuits have been filed so far, which Texas lawyer Brent Coon called the "front end of a wave," since he estimates tens of thousands of people have retained a lawyer but not sued.

"The majority of the cases have not entered the court system," said Coon, who represents hundreds of fishermen, restaurant owners, retailers and others who have sued BP or its partners. He estimates that the total number of claims "already far exceeds \$20 billion."

BP did not immediately return a call for comment. Andrew Langan of law firm Kirkland & Ellis LLP, which is representing the company, declined to comment.

### COMPENSATION FUND WRINKLE

A federal panel on Tuesday appointed Carl Barbier, a federal judge in Louisiana, to oversee the hundreds of spill-related civil lawsuits filed in the United States, mostly in the South.

Barbier is based in New Orleans, where famed seafood restaurants have blamed the spill for a drop-off in tourist traffic and fishing bans have dry-docked shrimp boats along the nearby coast.

The federal panel called Barbier's district the "geographical and psychological 'center of gravity'" for the spill-related cases, at least 40 of which are already in Barbier's hands.

The federal panel sent a small number of lawsuits related to securities law to a federal court in Houston.

Barbier will decide critical issues such as when to apply environmental or maritime laws, and could hold bellwether trials to develop a benchmark to measure claims.

Eventually, Barbier is supposed return the cases to the districts in which they were filed for trials. In practice, however, judges in multi-district litigations often help forge broad settlements, as in the Vioux product liability cases against drugmaker Merck & Co Inc.

"Because of the devastation in the Gulf, I am sure they are going to be working to get this moving quickly and expeditiously," said Sol Weiss, an attorney at plaintiffs' law firm Anapol Schwartz who has been involved with similar complex cases but is not working on any spill lawsuits.

BP's compensation fund administered by Kenneth Feinberg, who oversaw executive compensation at companies that received federal bailout funds, adds another wrinkle to the spill-related litigation.

Injured workers, out-of-work fishermen and others may simultaneously pursue a lawsuit while seeking a claim under the BP fund. If they receive money from the fund, however, they would probably have to drop legal action.

"The compensation fund is going to be reasonably successful, and the fund will take care of the substantial majority of the claims," said Nagareda, the Vanderbilt law professor.

Barbier might be asked to put most of the lawsuits on hold and transfer the claims to BP's fund.

That would be "sort of the worst-case scenario" for the plaintiffs' lawyers who would have nothing to litigate, said Gary Mason, a plaintiffs' attorney with Mason LLP in Washington.

Mason said many victims will benefit as the fund quickly pays claims. However, a large number of fishermen, for example, work on a cash basis and will not be able to prove how much business they lost due to the spill.

"They will feel low-balled," said Mason, who has brought several cases related to the spill. "You will end up with a large group of dissatisfied and disgruntled fishermen who don't take the money from Ken Feinberg."

(Editing by Lisa Von Ahn)

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