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## Louisiana Federal Court Orders Benzene Defendant to Produce Insurance Policies

NEW ORLEANS — A Louisiana federal court has ordered Texaco Downstream Properties Inc. to produce insurance policies to benzene plaintiffs, granting in part a motion to compel filed by the plaintiffs last month.

According to a July 2 minute order, the U.S. District Court for the Eastern District of Louisiana allowed the defendant seven days to produce copies of the policies, which the defendant had claimed was subject of an improper subpoena.

In the underlying complaint, the plaintiffs contend that Chris Cologne developed non-Hodgkin's lymphoma after being exposed to benzene-containing products during his employment at Texaco and Brown & Root.

According to a separate motion filed last month, Texaco is the only remaining defendant in the action.

In a June 20 motion, Texaco had sought to quash the subpoena, contending that it was "improperly issued."

Specifically, the defendant contended that the plaintiff served the subpoena requesting the insurance policies on June 6. In it, the plaintiffs asked Texaco to produce the policies by June 21.

"By giving TDPI only two weeks and one day to respond, the Plaintiff's Subpoena seeks to shorten the usual 30-day time period that a party has to respond to a properly-served document request," the motion stated.

The plaintiffs responded on June 25 with a motion to compel, arguing that the insurance policies should have been produced in initial disclosures, as required by Federal Rule of Civil Procedure 26.

"TDPI did not disclose a single insurance policy in its initial Rule 26 disclosures," the motion to compel said. "In its supplemental Rule 26 disclosures TDPI only generally referenced the policies identified through discovery from Travelers. TDPI's Second Supplemental disclosures failed to make any further mention of insurance policies."

The plaintiffs further claimed in their motion that in Dec. 2012, the judge overseeing the case directed the defendant to produce the insurance policies.

"TDPI has ignored this and denied the existence of policies of insurance that provide coverage," the plaintiffs argued.

In its order, the court noted that a hearing was held telephonically, during which time the motion to quash was denied and the motion to compel was granted in part.

“...TDPI shall produce to plaintiff the disputed insurance policies no later than seven days from the date of this Minute Entry,” the court held.

The defendant is represented by Patrick A. Talley Jr., Barbara L. Arras, Curt L. Rome and Jeremy T. Grabill of Phelps Dunbar in New Orleans.

The plaintiffs are represented by L. Eric Williams Jr. of the Williams Law Office in Metairie, La.; Richard J. Fernandez and Amber E. Cisney of Richard J. Fernandez in Metairie; and John A. Venezia of Venezia & Associates in New Orleans.

Cologne, et al. v. Shell Oil Co., et al., No. 12-735 (E.D. La.).

Documents are Available Call (800) 496-4319 or Search [www.harrismartin.com](http://www.harrismartin.com) Motion to Quash Ref# BEN-1307-12 Motion to Compel Ref# BEN-1307-13 Minute Entry Ref# BEN-1307-14

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