

SUCCESS IS

+ From the day its Deepwater Horizon rig exploded, Transocean has denied wrongdoing, deflected blame, and paid dividends, not cleanup costs. So far, its hardball strategy is working

By Paul M. Barrett

NEVER HAVING TO SAY

YOU'RE SORRY

▲ A Transocean drilling vessel and platform used in the Gulf spill containment effort

fund BP established, a fund that is close to finalizing settlements with 17 former Transocean employees, according to Anthony G. Buzbee, a Houston plaintiffs' attorney representing the workers. Overall, BP has spent \$17.7 billion related to the spill as of the end of 2010—more than 100 times as much as Transocean, which last year, according to the U.S. Justice Dept., “actually booked a \$270 million ‘accounting gain’ on the difference between the real value of the Deepwater Horizon and the amount it received in hull insurance following the vessel’s sinking.”

Transocean’s shrewd, defiant response strategy began almost from the moment the crew lost control of the well. Within 12 hours of receiving medical attention after the calamity, surviving Transocean employees were transported to a hotel in New Orleans, where they were questioned by company lawyers seeking to exonerate the drilling contractor, according to Buzbee and other plaintiffs’ attorneys. In subsequent months, even as BP pledged to “make it right” and raise billions for its relief fund, Transocean worked behind the scenes to minimize liability and convince investors everything was just fine.

In May 2010 it filed papers in federal court in Houston seeking to use a 169-year-old maritime statute to cap the company’s liability for deaths and injuries at less than \$27 million. (The owners of the Titanic invoked the same law to notable success.) Then, shortly after trying to minimize its payments to widows and survivors, Transocean announced plans to issue \$1 billion in dividends to its

“Transocean is playing a high-stakes game of chicken because the company can’t afford to admit even a portion of liability,” Gordon says.

shareholders. It further declared in its annual report that despite the death and destruction in the Gulf, 2010 had been “the best year in safety performance in our company’s history.” It even handed out safety bonuses to top executives. “You almost have to admire their chutzpah—almost,” Steven Gordon, a plaintiffs’ lawyer in Houston, says of Transocean. Gordon represents eight former Transocean employees who survived the disaster and are suing the company and BP.

The all-out court battle over who ultimately pays for the Gulf oil spill won’t begin until next February in New Orleans. BP, Halliburton, and the federal government will fight hard to force Transocean to share in the costs, yet already there are indications that Transocean has painted a bull’s-eye on BP. “Transocean has some pretty compelling arguments,” says James P. Roy, an attorney based in Lafayette, La., who helps lead a consortium of law firms that represent thousands of businesses, landowners, and municipalities. A past president of the Louisiana Trial Lawyers Assn., Roy weighs his words carefully. Transocean, he says, made negligent mistakes, but “in the end, we’ll be looking to BP for the lion’s share of the compensation.” Over BP’s objection, the plaintiffs’ consortium and Transocean are jointly urging the court in New Orleans to adopt a trial plan that would focus more attention earlier in the proceedings on BP’s responsibility for the oil discharged in the months after the blowout.

Why is Transocean fighting so hard to avoid even a sliver of blame for the disaster? Here’s one theory: The company’s survival is at stake. “Transocean is playing a high-stakes game of chicken because the company can’t afford to admit even a portion of liability,” says Gordon. “The total liability could ultimately be \$50 billion. BP wants Transocean to chip in a big percentage, but Transocean is a much smaller company than BP and doesn’t have that kind of cash flow or insurance. ... So Transocean’s strategy is to offer zero, nothing—how about zip?—and hope that works in court. ... I don’t think they care whether it works in the court of public opinion.”

Transocean has acted responsibly, says spokesman Brian J. Kennedy. Its attempt to limit injury and death payouts was done at the behest of its insurance underwriters and as a way to consolidate litigation, he adds. Transocean has not been legally

obliged to contribute to the BP fund. Concern about legal principle, not finances, has driven Transocean’s actions, he says.

Many other companies are doubtless following closely what amounts to Transocean’s master class on how to survive a devastating crisis by never saying you’re sorry. On a deeper level, though, the furious blame-gamesmanship by Transocean and others signals danger—and a lost opportunity to admit mistakes and recalibrate the balance between satisfying energy demands and protecting against mammoth risks.

Little known outside the energy field, at least before April of last year, Transocean is the world’s largest offshore oil driller. It has risen to prominence through mergers and, crucially, specializing in drilling in the deepest, most dangerous water. Its motto: “We’re never out of our depth.”

Over the last two decades, as easier-to-reach crude and natural gas reserves have been depleted, BP and other large private and government-owned companies have increasingly outsourced risky and arduous offshore work to companies such as Transocean, EnscO, and Noble Drilling Services, acting more as strategists and general contractors than as hands-on well diggers or operators. This trend has benefited Transocean’s bottom line. For 2010, the company reported net income of \$988 million on revenue of \$9.6 billion. It presently employs 18,000 people from Latin America to Asia and Africa. And although its stock price has fallen by a third since the Gulf disaster, Transocean remains very much in demand, with a contract backlog of \$24.6 billion as of late May.

Transocean traces its roots to a small Houston concern called the Offshore Co., which was started in the 1950s. Over the decades, the operation expanded and in 1996 acquired Transocean, then Norway’s largest offshore driller. In 2007, with oil prices soaring toward a record high of \$147 a barrel and offshore drilling rates similarly rising, the combined company acquired its biggest rival, Global-SantaFe. Transocean now commands 27 percent of the worldwide market for floating drilling rigs, according to Rig-Logix, a research firm in Houston. Very few companies can do what Transocean does. It holds, for example, the international record for underwater drilling at a dizzying 10,194 feet.

BP and the other oil majors engage in extensive consumer marketing and

At Stake: \$50 Billion?
Six players in the battle over who will pay damages



Steven Newman, Transocean’s CEO, says the BP contract protects his company against environmental or economic liability



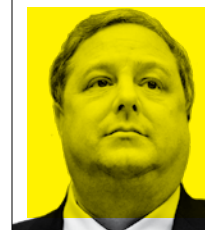
Lou Colasuonno, a former editor of the *New York Post* and *Daily News*, is one of Newman’s crisis PR managers



Steven Gordon, a Houston attorney for ex-Transocean employees, says the company can’t afford to take any blame



James Roy, a lawyer for small businesses, says BP should bear much more liability than Transocean



Douglas Brown, a mechanic injured in the explosion, is suing his former employer, Transocean



John Konrad, a former Transocean chief mate, is providing advice to plaintiffs’ attorneys

subtle political diplomacy. They seek approval from lawmakers, regulators, and autocrats who dispense valuable leases. And they curry favor with consumers, too, who buy their gasoline at service stations. (For years before the Gulf disaster, BP insisted in a lavish multimedia marketing campaign that its initials stand for “beyond petroleum.”) Drillers like Transocean are comparatively insular operations, focused almost exclusively on intra-industry relationships. When I traveled from New York to Houston to meet with the company, Guy Cantwell, Transocean’s polite in-house communi-

cations director, agreed to get together at a Starbucks across a concrete courtyard from the company’s unmarked office building. Cantwell would not, however, answer a single question on the record, make an executive available for an interview, or even invite me into Transocean’s offices. “We’re working all media through Lou,” Cantwell said.

Lou Colasuonno, a senior managing director with the Wall Street crisis-management firm Financial Dynamics, is an improbable spokesman for a Houston oil driller. A compactly built New Yorker who peppers his conversation with “friggin’,” “freakin’,” and other variations on the f-bomb, Colasuonno, 63, formerly edited both of the city’s major tabloids, the *New York Post* and the *Daily News*. Since shifting to public relations in the 1990s, he has advised companies in a range of industries. Before the Deepwater Horizon disaster, though, he didn’t know much about oil or offshore drilling.

Immediately after the blowout, Colasuonno and Kennedy, another Financial Dynamics senior managing director who specializes in energy, and formerly served as press secretary to House Speaker John Boehner, rushed to Houston to counsel Transocean CEO Steven L. Newman. The Atlanta-based corporate law firm of Sutherland Asbill & Brennan took the lead on Transocean’s legal team.

Newman, 46, had been promoted to CEO only six weeks before the disaster. A Harvard MBA with an undergraduate degree in petroleum engineering from the Colorado School of Mines, he joined Transocean in 1994 and has held senior posts in operations. He spent much of the spring of 2010 testifying before Congress, often sitting alongside executives from BP. Newman, who has a technocratic mein, gave no ground on the question of liability. As the designer and main owner of the physical well, as opposed to the rig to which it was attached, BP made every key decision, he told lawmakers.

“BP takes responsibility for hydrocarbons emanating from the well, and their responsibility extends to controlling the well, and all of the cleanup efforts, and all of the economic damages associated with the cleanup efforts,” he declared during a May 28, 2010, investor conference call.

That blanket statement prompted Mabel Yu, an analyst with Vanguard Group, the large mutual fund manager, to ask Newman: “If the investigation proves there is some ... fault from the Transocean equipment or the employees, →

PREVIOUS SPREAD: JIM WILSON/THE NEW YORK TIMES/REDUX; THIS SPREAD: CLOCKWISE FROM TOP LEFT: MICHAEL REYNOLDS/EPA/CORBIS; CHARLOTTE RUSHTON; JOHN ROWLAND/THE DAILY ADVERTISER; PETE MAROVICH/ZUMAPRESS.COM; COURTESY STEVEN GORDON; MARCO DILAURO/AP PHOTO

O.K., would that liability shift?"
"Yeah, Mabel, we think it is very well defined in the contract," Newman responded, alluding to an indemnity clause in the contract between the two companies.

Yu persisted: What if evidence shows that the driller could have prevented the blowout?

"The indemnity under the contract from BP to Transocean is extremely broad," the CEO maintained. In other words, the legal agreement defining the companies' relationship includes language shifting liability to BP. Transocean hasn't even "set up any reserves with respect to this incident," he added, referring to the company's decision not to set aside cash. (Transocean has a total of about \$1 billion in insurance coverage.)

When Yu asked for the fifth time whether Transocean had any concerns that its liquidity could be drained if it were tagged with a significant portion of the ultimate legal damages, a Newman aide cut her off. "Thank you," said Newman, and another analyst changed the subject.

At the risk of crassness, think of the Apr. 20, 2010, blowout as a grisly Broadway production that unfolded before a worldwide audience. In Transocean's view, BP was an amalgam of the producer, director, and choreographer. Ac-

Transocean "booked a \$270 million 'accounting gain'" on the difference between the rig's value and the insurance payout, says the DOJ

cording to this version of the playbill, Transocean, Halliburton, and other contractors working on the Deepwater Horizon were merely actors playing roles, extras, and stagehands.

Aboard the rig, a senior BP manager in fact had ultimate authority, while Transocean employees enjoyed wide latitude to do often complex and precarious jobs. On the 20th, an ensemble of technicians and engineers were temporarily plugging the Macondo well a mile below the surface of the Gulf. Behind schedule and costing BP more than \$1 million a day to operate, the Deepwater Horizon was then supposed to disconnect from the well and move on to another job. BP planned to bring another rig back later to put Macondo into regular production.

(The unwittingly perverse name BP chose for its project refers to a fictional town destroyed by a windstorm in the Gabriel García Márquez novel *One Hundred Years of Solitude*.)

As a part of the temporary plugging procedure, Halliburton, the cement contractor BP had hired, pumped a nitrified slurry down the drill casing to prevent oil and accompanying natural gas from rising up from the well. BP and Transocean have said that Halliburton contributed to the disaster by using a faulty mixture that allowed hydrocarbons to escape—an allegation Halliburton denies.

At a crucial juncture, a test of the pressure in the well was misinterpreted; responsibility for this error is also disputed. The test involved replacing so-called heavy drilling mud with lighter seawater to confirm the integrity of barriers keeping the oil and gas down in the well where it belonged. Having misread the test, workers did not recognize for a time that oil and gas had begun to rise dangerously. Gas vented directly onto the rig and caught fire. Devastating explosions wrecked the Deepwater Horizon; the out-of-control well proceeded to spew nearly five million barrels of oil into the Gulf, before BP managed to stop the flow on Aug. 5.

Transocean's effort to cast BP as the impresario behind the catastrophe re-

ceived early help from the Obama Administration. Ten days after the explosion, Interior Secretary Kenneth Salazar told reporters: "We cannot rest, and we will not rest, until BP permanently seals the wellhead and until they clean up every drop of oil." A few days later, on Sunday, May 2, he sharpened his imagery. "Our job," Salazar said on CNN, "is basically to keep the boot on the neck of British Petroleum." The same day, President Barack Obama was standing in the rain at a Coast Guard staging area in Louisiana. "Let me be clear," Obama said sternly, "BP is responsible for this leak. BP will be paying the bill."

At the same time, BP's then-chief executive, Tony Hayward, did his part to keep his company in a harsh spotlight. "There's no one who wants this thing over more than I do," he said on May 30, 2010, before earning his place in the annals of CEO self-pity by adding: "You know, I'd like to have my life back."

With BP taking the heat, Transocean remained relatively invisible; its CEO Newman was a model of restraint. "The Deepwater Horizon had a tremendous reputation in our company and across the industry, a reputation that was the direct result of the talented individuals who worked for her," he said during a press conference in New Orleans on Apr. 23. "Our thoughts and prayers are

The owners of the *Titanic* used an obscure maritime law to limit damages to victims' families. Transocean has invoked the same 1851 statute

with them and their loved ones during this difficult time."

About three weeks later, with thousands of gallons of crude still pouring into the Gulf every day, Newman's company quietly set out its "petition for exoneration from or limitation of liability" using an arcane maritime law. If it were erroneously found liable to some extent, Transocean argued in court papers, its exposure to death and personal injury claims should be capped at \$26,764,083. That strikingly precise amount, the company explained, was its pecuniary interest in what remained of the Deepwater Horizon on the sea floor.

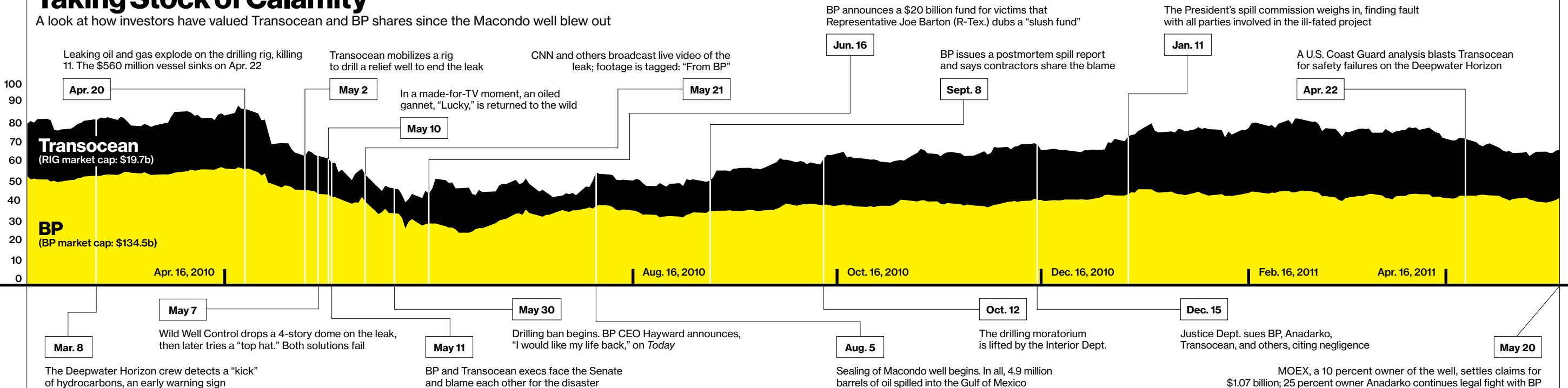
Transocean's filing elicited a quick response from the Justice Dept. The government said it was concerned that the

company would seek to establish \$27 million as the limit not only of its personal-injury liability, but also its potentially much greater exposure under federal environmental laws. Justice pointed out that in its petition, Transocean relied on the U.S. Limitation of Liability Act of 1851. The statute "can best be understood in the dim light of its most infamous use," the government argued. "Following the sinking of *RMS Titanic* in 1912, the ship's owners invoked the Limitation Act in an attempt to avoid paying as little as a farthing to the survivors of the sinking, as well as to the estates of the more than 1,500 passengers who lost their lives."

The *Titanic's* owners failed to achieve complete exoneration, the government continued, but "they wildly succeeded in their second undertaking. After lengthy ... litigation, the ship's owners paid the paltry sum of approximately \$95,000—to be shared by all of the survivors and each of the estates of the deceased." Transocean should not be permitted to shield itself with the Limitation Act, Justice asserted, because the law has been eclipsed by more recent environmental statutes. This issue will be addressed by a federal court in New Orleans in February. A person familiar with the situation says Transocean hopes eventually to settle with all the families of its employees who died. That could make

Taking Stock of Calamity

A look at how investors have valued Transocean and BP shares since the Macondo well blew out



the \$27 million cap irrelevant.

Transocean's limitation bid came with a "Dickensian twist," the Justice Dept. said: "Within days of filing its petition in this court, Transocean publicly announced (from Switzerland) that it would be issuing approximately \$1 billion in dividends to its shareholders." The parenthetical geographic reference alludes to Transocean's incorporation in Switzerland for tax purposes, even though most of its executives and senior staff work in Houston. Justice wasn't quite through. Transocean's dividend notice, the government said, came "roughly in tandem with another announcement dealing with the fact that Transocean has so far made a profit, of sorts, as a result of all the tragedy." Having insured the Deepwater Horizon, government lawyers said, Transocean reported its \$270 million "accounting gain" on the rig's insurance payout. (SEC records confirm that in 2010 the company reported insurance payouts of \$560 million for the rig.)

Responding to Justice's filing, Kennedy, the Transocean spokesman, says "it is inaccurate" to refer to an accounting gain as a profit and unfair to bring the *Titanic* into the Macondo case.

As the Gulf crisis unfolded, BP acknowledged that as the majority owner of the well, it was required under the Oil Pollution Act of 1990 to pay for the spill cleanup. In contrast to Transocean's Liability Act foray, BP voluntarily waived the pollution law's \$75 million liability cap. It reserved the right, however, to come back later and attempt to get Transocean, Halliburton, and other contractors to kick in a share of the costs.

Not a chance, Transocean countered. "As we have regularly stated since the event," Newman said during an investor conference call on Aug. 5, 2010, "we have a broad indemnity in our drilling contract from BP." To reassure investors, the company attached the legalese to its second-quarter 2010 earnings report. BP, the contract states, "shall assume full responsibility for and shall protect, release, defend, indemnify, and hold contractor [Transocean] harmless from and against any loss, damage expense, claim, fine, penalty, demand or liability for pollution or contamination, including control and removal thereof, arising out of or connected with operations under this contract."

BP has a different reading of the legal provisions. It says in court filings that Transocean ran the Deepwater Horizon with such gross negligence that the driller

has voided any protection under the companies' contract. "But for Transocean's improper conduct, errors, omissions, and violations of maritime law, there would not have been any blowout," BP contends. Beyond noting that it has already spent some \$18 billion responding to the spill, with the bills continuing to arrive, the British company says it took a special pretax charge of \$40.9 billion for 2010.

For BP, such figures are within the realm of rational contemplation. It reported revenue of \$297 billion for 2010, nearly 30 times that of Transocean's. Even after a 29 percent falloff in its stock price since the disaster, BP has a market capitalization of \$134.5 billion. Transocean's market cap, by contrast, stands at \$19.7 billion. Transocean has said in SEC filings that its costs related to the blowout—after taking account of insurance recoveries—are \$160 million. The company projects that it will spend an additional \$75 million through the end of 2011.

"Do the math," says Gordon, the Houston plaintiffs' attorney. If BP were able to shift a substantial portion of its spill-related bills to Transocean—say, 30 percent or 40 percent—the smaller company "would be looking at bankruptcy court." Thus Gordon's theory that Transocean can't afford to compromise.

Transocean works hard to quantify risks, sometimes in a counterintuitive manner. The company used a statistical formula, for instance, to arrive at its conclusion that 2010 was its safest year ever. When skeptics from Interior Secretary Salazar on down raised questions about

Transocean has accused the Coast Guard of "groundless speculation" and dishonoring the memory of the 11 men who perished on its drilling rig

how the disaster figured into Transocean's calculations, Newman backed off. He and other top executives donated \$250,000 in safety bonuses they had received to a workers' memorial fund. "Nothing is more important to Transocean than our people," Newman said in a written statement, "and it was never our intent to diminish the effect the Macondo tragedy has had on those who lost loved ones."

John Konrad is intimately familiar with Transocean's safety practices. He worked on the company's vessels for seven and a half years, although not on the Deepwater Horizon. "I have close friends who died on that rig," he says, "and friends who still work for the company." He worries that the claim that 2010 was a standout year for safety "reflects something deeper about how the top people think."

In 2008, Konrad was serving as chief mate, the No. 2 maritime position, on another huge rig, the Discoverer Deep Seas. Within a period of months, the vessel suffered three fires, the last of which, in May of that year, poured smoke into the bridge before it was put out, Konrad says. Despite his urging, he says his boss declined to report the third incident to higher-ups. The superior officer feared punishment, Konrad says. So Konrad took it upon himself to inform officials on "the beach," as the onshore offices are known. A week later, he got a call from Transocean's human resources office. We've done a full investigation, he says he was told. Everyone was cleared. It was just smoke. "Even a first-grader knows that where there is smoke, there is always fire," Konrad responded.

Whatever happened, it was no longer his concern, he was told. The company offered him a new assignment—off the coast of Nigeria, "a notoriously bad place to work and a big demotion," he says. A week later, a fire broke out in the engine room of Konrad's former rig, he says. He was placed on paid medical leave for six months, and then the salary checks stopped coming.

Transocean declined to comment on Konrad, who decided not to go to court. Instead, he took a job with a Transocean rival, Pride International. He was aboard a rig off the Cape of Good Hope when he got word of the blowout in the Gulf. More recently, he has quit the offshore life to settle with his wife and two young children in Morro Bay, Calif. He supports the family by running gCaptain.com, an advertiser-financed maritime website. He co-wrote a book about the disaster called *Fire on the Horizon* (2011) and is working as a paid consultant to Steve



On the spill's anniversary, people gathered in Grand Isle, La., to remember the 11 dead, nine of whom worked for Transocean

Gordon, the Houston plaintiffs' lawyer.

"You have to accept that offshore drilling is dangerous," says Konrad, 34. "There's no way to eliminate every risk. The key is to anticipate the risks and understand them." A graduate of the Maritime College at the State University of New York, he has a mariner's beard and sunburn (no pipe, though). During a long conversation at a harborside café in Ventura, Calif., any bitterness Konrad feels toward Transocean is tempered by professional respect. "It's the premier company in the business," he says. "It has the best equipment and the best people. ... It has a strong safety culture, but it's a flawed safety culture."

Transocean strictly enforces volumes of safety rules, he explains, but penalizes supervisors who are assertive about systemic problems that could slow the pace of drilling. "So you get every minor scrape reported, but people are afraid to talk about bigger issues," he adds.

His assessment squares with that of the British government's Offshore Division Human and Organizational Factors Team. The regulatory agency reviewed the operations of four Transocean rigs in the North Sea during the summer and fall of 2009. Based on interviews with 150 em-

ployees and a review of records, the British team concluded that Transocean has loyal workers who care about safety. "It is unfortunate," however, the regulators conclude, "that perhaps the most prominent and consistent indicator of Transocean's organizational culture is one of discipline, blame, and zero tolerance. ... Unacceptable behaviors by offshore management were raised on more than one rig visited. These behaviors included bullying, aggression, harassment, humiliation, and intimidation." The company gives "little consideration [to] wider organizational issues, such as fatigue, distraction, communication failures, or defective equipment," the report adds. A Transocean spokesman says the company met with the British regulators, who were satisfied with remedial steps Transocean took.

In December 2009, four months before the Deepwater Horizon exploded and sank, one of Transocean's rigs in the North Sea suffered a near-miss that the U.S. Presidential spill commission described as "eerily similar" to the subsequent disaster in the Gulf. On Dec. 23, 2009, large quantities of drilling fluids and hydrocarbons erupted from the North Sea well before the crew managed to seal off the project and prevent a catastrophic explosion. Transocean

amended its guidelines for the unavoidably dangerous procedures in question. But according to the Presidential commission, neither a PowerPoint explaining the guidelines nor a separate advisory on the new rules "ever made it to the Deepwater Horizon crew." Had the Deepwater Horizon crew "been adequately informed of the prior event and trained in its lessons," the commission added, "events at Macondo may have unfolded very differently." Transocean has said the North Sea near-miss was not similar to the Gulf disaster and the changes to the guidelines only reiterated well-known warnings.

There have been four major reports on the oil spill, including Transocean's recent exculpatory addition to the literature. In January the Presidential commission said all of the participants in the Macondo project share responsibility—a signal that there are systemic safety problems in the offshore drilling business. The Coast Guard in April issued the results of a separate investigation that focused on maritime issues—meaning, primarily, Transocean—and the agency found plenty to criticize.

BP, for its part, has broadcast a mixed message. In court, its law-

PATRICK SEMANSKY/AP PHOTO

yers have argued that Transocean's missteps were the cause of the explosion. Rig workers failed on the evening of Apr. 20, 2010, to recognize "clear and obvious warnings of a well control incident," BP says in papers filed in New Orleans. Once Transocean employees belatedly understood the catastrophe, BP adds, they "used the wrong equipment at the wrong times to attempt to control the blowout." Then the blowout preventer, or BOP, malfunctioned. An emergency device designed to shear through drill pipe and seal off an out-of-control well, the BOP failed because Transocean had not maintained it adequately, BP says. "Every single safety system and device and well control procedure on the Deepwater Horizon failed."

But in other statements, BP has seemed to indicate grounds for conciliation—if Transocean would come up with some cash. The British company's investigative report, issued last September, struck a notably mild overall tone. "The team did not identify any single action or inaction that caused this accident," BP said. "Rather a complex and interlinked series of mechanical failures, human judgments, engineering design, operational implementation and team interfaces came together to allow the initiation and escalation of the accident. Multiple companies, work teams, and circumstances were involved over time." BP conceded, for instance, that both its on-site rig managers and members of the Transocean crew misread the important negative pressure test.

Some peripheral players in the Macondo drama have accepted BP's invitation to settle. In May, MOEX Offshore, the passive owner of a 10 percent stake in the well, agreed to pay BP \$1.07 billion to resolve all claims from the spill. Anadarko Petroleum, owner of a 25 percent stake, has said it is "prepared to come to the table under the right circumstances."

Transocean, however, is brooking no compromise. Its June 22 investigative report alleged that BP used a risky well design, skimped on the heavy drilling mud needed to hold back high-pressure hydrocarbons, and kept changing its plans in a way that invited disaster. The British company revised its plans for temporarily sealing Macondo five times in the two weeks preceding the blowout, according to Transocean. The fateful changes "were driven by BP's knowledge that the geological window for safe drilling was becoming increasingly narrow."

Transocean has also lashed out at the U.S. Coast Guard. The Guard's 288-page

UP TO \$400 MILLION

Estimated owner profits
lost on the spilled oil

DATA: EDWARD JONES

assessment acknowledged the government's shortcomings in overseeing the Deepwater Horizon. But the agency also found that Transocean's lax maintenance, flawed safety culture, and faulty training all contributed to the lethal explosion. Its investigation, the Coast Guard said, "revealed numerous systems deficiencies and acts and omissions by Transocean and its Deepwater Horizon crew that had an adverse impact on the ability to prevent or limit the magnitude of the disaster."

In a blistering 110-page response on June 8, Transocean accused the federal agency of "groundless speculation [that] does nothing but malign the rig-crew—experienced men who died battling a blowout created by BP's risky decision-making." Any criticism of its performance, Transocean said, dishonors the memory of the 11 men who perished.

The fortunes of the surviving Deepwater Horizon crew members have varied widely. Transocean says that "nearly 40 percent" of its employees are back at work, "many on rigs offshore." Regardless of whether they returned, Transocean continued to pay the salaries of injured workers through the end of 2010, at which point the company offered a lump sum settlement of half a year's salary in exchange for a release from liability. Most of the payments ranged from about \$30,000 to \$60,000, according to lawyers for current and former workers. Transocean declines to say how many people accepted the deal.

Another 40 former employees are pressing lawsuits pending against Transocean, among other defendants, according to Buzbee, the plaintiffs' attorney in Houston. All of those suits are consoli-

dated into the massive knot of litigation that awaits untangling in a federal court in New Orleans.

Some former Transocean workers have negotiated settlements from the \$20 billion claims fund created by BP, which has promised to finance the fund over a period of about three years. Settlements with the BP fund require individuals to surrender claims against all potential defendants. Buzbee says he is finalizing settlements with the fund on behalf of all 17 former rig workers he represents. The terms will be confidential. "The money is fair and substantial," he says.

In terms of relations with its workers, Transocean doesn't stand out from the rest of its industry, according to Buzbee. "To a man, my guys liked" the company before the Deepwater Horizon accident. Transocean's employment and safety practices, he says, "were pretty typical in the industry. ... All of the companies were pushing the envelope on deep-sea drilling, taking bigger and bigger risks. Something was bound to blow eventually."

Steve Gordon thinks he can do better for his eight former Transocean employee clients by pursuing their claims in court. He has already negotiated a confidential settlement for Tracy Kleppinger, the widow of Karl Kleppinger Jr., a Transocean crew member who died on the Deepwater Horizon, and Kleppinger's son, Aaron. "For the Kleppinger claim, Transocean really stepped up to the plate," Gordon acknowledges.

That's not the case, he says, with Douglas Brown, another Gordon client. The former mechanic on the Deepwater Horizon suffered multiple injuries in the explosion and hasn't resumed working. "It was like getting hit by a freight train," Brown says from a hospital bed in Houston following reconstructive knee surgery related to the explosion. Transocean paid more than \$30,000 for that operation, he says, but his regular salary stopped in December when he declined to accept the company's offer of six months' pay. Transocean's public relations consultants say they are familiar with Brown but decline to discuss the specifics of his case.

"I'm suing Transocean and BP to hold them accountable," Brown says, shifting position in his hospital bed and wincing in pain. "I gave 11 years to Transocean, and all I see is a lot of finger-pointing." All the companies involved in Macondo ought to be held accountable, he adds. "Let's deal with it." **B**

—With reporting by Karen Weise and Antoine Gara