

# THE DAILY RECORD

WESTERN NEW YORK'S SOURCE FOR LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

## Bank cheques and balances

I began writing this column four weeks ago, and it has morphed on a daily basis.

This one isn't funny. It originally began: "I was sitting next to a small pond in the rain, noticing how each drop changed everything around it, and in the process, how they collectively change the peaceful surface into a tumultuous storm. I remember being home years ago on a college break, climbing up a tree and staring for what seemed like hours, at the wildlife that inhabited what was once a large irrigation pond. It has long since been filled in by developers who gave in to the urge of turning nature into profit.

"I can't condemn it. We live in a wonderfully capitalistic society, and some of the people I love most dearly make a living that way. I'm still conflicted about it, though, when it gets beyond the point of reasoned exploitation. As I look back, that pond is symbolic of the surface of an ocean now being massively filled with oil, changed from its peaceful existence into a tumultuous catastrophe."

As I wrote and rewrote this column each day, more and more news came out about how we originally were lied to about the volume of the underwater gusher.

Then there were days when we witnessed Halliburton executives pointing fingers at BP, BP blaming Transocean, and everybody blaming everyone else. In one day's draft, when I thought, naively, that things had calmed down enough for me to finalize the piece, I wrote: "Congressional hearings are about to start. By the time you read this, new information will come out, but at this moment I know that the executive director of the Port Commission of Louisiana said, 'We're trying to save a heritage, a way of life, a culture that we know here in recreational and commercial fishing.'"

That was last week.

I watched each day's spin and, even in the beginning, long before we knew just how horrible it was, I was truly sickened by what was happening in the Gulf.

I was, and still am, disgusted by the lies originally fed to us all.

After the rig exploded, the workers who survived were kept on a ship nearby for 12 hours, forbidden to call their families to let them know they were safe, held against their will, before even beginning the 12-hour trip back. Some claim BP executives who had visited that rig were seen on deck, using the ship's radio or satellite phone to call their own homes.

Claims have surfaced about past drug parties laced with sexual encounters between lobbyists for the oil companies and governmental employees of the Minerals Management Service.

And yet, the explosion's survivors were held captive by the melded government/corporate investigatory teams, supposedly so that they "could talk to them first." Ironically, those corporate/government officials also wouldn't release them until after they were drug tested. The government kept them in custody in a bone chilling alliance with their corporate teammates, and denied their rights to freedom and to free speech — at the expense of their family's torturous ordeal — all in the name of turning nature into profit.

I wrote three weeks ago, in an initial draft of this week's column, that "warnings had been given over the past decade that the Minerals Management Service was the same agency charged with both regulating the oil industry and collecting royalties from the oil industry" and that, despite the warnings, "not one government official or entity ever really addressed the issue."

It seems unbelievable that a government agency should profit from the success of an industry and, at the same time, provide regulation that should put safety over its profit-making abilities. The foxes are guarding the hens, the bank cheques with no balance. The agency's own records show almost 1,500 serious drilling accidents and offshore operations between 2001 and 2007 alone.

To put it more bluntly: The Fox will never lose its bias.

I wasn't surprised that Rush Limbaugh said recently that, even early on, he "wasn't trying to minimize it" but "the ocean is a really strong force, and it can take a little oil."

The man has gone beyond benign ignorance; he has fallen into malignant malevolence.

I am amazed at the possibility that BP's liability actually is still limited by statute — without regard to the company's reckless disregard for the safety of those around us, and perhaps the Earth itself. That is true despite the fact that BP, along with Halliburton and Transocean, will cause damages that will cost us billions to fix, and decades to repair even partially. There is no excusable explanation. Wrongdoers must never be allowed to declare they are responsible only for an artificially pre-determined amount of compensation, regardless of the damage that's inflicted.

*Continued ...*



By **ROBERT L. BRENN A JR.**

Daily Record  
Columnist

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## *Continued ...*

The problem is that those are corporate entities, for whom profit is the only goal in sight. They have no soul, no blood in their veins, no nerve endings, no heart. The only checks and balances they understand is the balance in their checkbooks.

As I keep re-writing this column, it's become obvious that I must write a final version for publication. Living with the daily edits must come to an end, for both my sanity, and so I no longer fail in my obligations to my editor.

With the magnitude of financial and emotional devastation, there can be no possible acceptance of an artificial cap on the damages. An arbitrary and false cap on damages, regardless of the injury inflicted, or the profit motive to commit the underlying acts cannot be tolerated in a free democracy. It is antitheti-

cal to our much needed capitalistic society.

I shouldn't be surprised at the notion, however. They got their playbook from those who came up with caps on damages for tort reform. They are the authors of the idea that, regardless of the magnitude of financial and emotional devastation inflicted on a fellow human being, we should accept only the irrelevant artificial cap on damages for which the wrongdoers will be held accountable. Our society cannot live with that one, either.

*Robert L. Brenna Jr. is a partner in the Rochester law firm of Brenna, Brenna & Boyce PLLC, which his father founded. He is the immediate past president of the New York State Academy of Trial Lawyers and hosts a Sunday morning radio program, "The Brenna & Brenna Law Forum," on WHAM 1180 AM at 8 a.m., online at [www.wham1180.com](http://www.wham1180.com).*