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BRIAN HESLIN AUTHORS ENERGY LAW360 ARTICLE

Moore & Van Allen Litigation attorney Brian Heslin and summer associate Jade Craig recently authored an article entitled "Finding Criminal Liability When the Smoke Clears" that was featured in Energy Law360. The article discussed the extent to which BP may be liable for the recent oil spill (and which laws may apply) as well as the role that media attention and public outcry have played in demanding an even greater level of legal reprimand against the company.

Heslin and Craig argue that recent media attention and public outcry have fueled the fire toward charging BP officials with criminal violations. While a thorough governmental investigation is appropriate, it appears that its focus on criminal charges is a reactionary response and one that might prove to be an uphill battle in court.

The authors argue that the Gulf oil spill is similar to the recent financial crisis in that the public is demanding that officials must be held accountable and be tried for criminal offenses. However, very few indictments and very few convictions were achieved following the financial crisis investigations, and BP criminal investigations may yield similar results. For certain, a criminal investigation would take months or more due to the extent of the damage surrounding the spill. Furthermore, the number of statutes that carry criminal penalties is limited. The authors listed the laws that may apply, including as the Clean Water Act, the Endangered Species Act, and the Refuse Act.

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