

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE CHARLES A. LEGGE, JUDGE

LARRY BOWOTO,	)	
ET AL.,	)	
	)	
PLAINTIFFS,	)	
	)	
VS.	)	NO. C 99-2506 CAL
	)	
CHEVRON CORPORATION,	)	
	)	
DEFENDANT.	)	
_____	)	

SAN FRANCISCO, CALIFORNIA  
FRIDAY, APRIL 7, 2000

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFFS:	MC GLASHAN & SARRAIL
	177 BOVET ROAD, 6TH FLOOR
	SAN MATEO, CALIFORNIA 94402
BY:	CINDY A. COHN, ESQ.

	BAHAN & HEROLD
	414 SOUTH MARENGO AVENUE
	PASADENA, CALIFORNIA 91101
BY:	DELLA BAHAN, ESQ.

FOR DEFENDANT:	PILLSBURY, MADISON & SUTRO LLP
	235 MONTGOMERY STREET
	SAN FRANCISCO, CALIFORNIA 94120-7880
BY:	JOHN M. GRENFELL, ESQ.

REPORTED BY:	ROBERTA L. ROGERS, CSR 1729, RPR, RMR, FCRR
	OFFICIAL REPORTER

COMPUTERIZED TRANSCRIPTION BY ECLIPSE

1 FRIDAY, APRIL 7, 2000

2

3 THE CLERK: C-99-2506, LARRY BOWOTO VERSUS CHEVRON  
4 CORPORATION. YOUR APPEARANCES, PLEASE.

5 MS. BAHAN: GOOD MORNING, YOUR HONOR.

6 DELLA BAHAN AND CINDY COHN ON BEHALF OF THE  
7 PLAINTIFFS.

8 MR. GRENFELL: GOOD MORNING, YOUR HONOR.

9 JOHN GRENFELL ON BEHALF OF THE DEFENDANT, WITH  
10 DEBORAH ORTMAN-SCOTT OF CHEVRON.

11 THE COURT: ALL RIGHT. WE'RE HERE FOR THE  
12 DEFENDANT'S MOTION FOR DISMISSAL BASED ON FORUM NON CONVENIENS.

13 I'VE READ THE MOVING AND OPPOSING PAPERS. DOES  
14 EITHER SIDE HAVE ANYTHING FURTHER YOU WOULD LIKE TO ADD?

15 MR. GRENFELL: YES, I HAVE A COUPLE OF POINTS. I  
16 WILL ONLY BE A COUPLE OF MINUTES.

17 THE COURT: GO AHEAD.

18 MR. GRENFELL: I DON'T WANT TO BELABOR THE QUESTION  
19 OF THE BALANCING OF THE PUBLIC AND PRIVATE INTERESTS BECAUSE I  
20 THINK IT'S QUITE CLEAR FROM THE COMPLAINT AND THE EVIDENCE  
21 BEFORE THE COURT THAT THIS IS A NIGERIAN DISPUTE AND THAT IT  
22 WOULD BE EXCEEDINGLY DIFFICULT TO RECONSTRUCT THE EVENTS FROM  
23 THE UNITED STATES WITHOUT SUBPOENA POWER.

24 THE MAIN ARGUMENT THE PLAINTIFFS MAKE IS -- RELATES  
25 TO THE ADEQUACY OF THE NIGERIAN COURTS. AND THE POINT I WANT

1 TO EMPHASIZE IS I THINK THAT ARGUMENT IS BASED ON ERRONEOUS  
2 ASSUMPTIONS AS TO WHAT OUR LAW REQUIRES FOR A FOREIGN FORUM TO  
3 BE ADEQUATE.

4 IT DOES NOT INVITE A SOCIOPOLITICAL ANALYSIS SUCH AS  
5 THE PLAINTIFFS HAVE PUT FORWARD. IT DOESN'T REQUIRE THAT THEY  
6 BE ABLE TO FILE THE SAME COMPLAINT THEY FILED HERE IN NIGERIA.

7 WHAT IT REQUIRES IS, FIRST, THAT THE JUDICIAL  
8 PROCEDURE IN THE FOREIGN COUNTRY COMPORT WITH DUE PROCESS; THAT  
9 IT BE FAIR. AND THAT IS NOT A POINT THAT THEIR NIGERIAN LAW  
10 EXPERTS HAVE DISPUTED.

11 SECONDLY, IT REQUIRES THAT THEY HAVE THE ABILITY TO  
12 GET A REMEDY FOR THE WRONG THEY COMPLAIN OF. AND I THINK ALL  
13 OF THE EXPERTS AGREE THAT THEY AT LEAST HAVE A TORT CLAIM  
14 AGAINST CHEVRON, REGARDLESS OF WHETHER THEY ALSO HAVE A CLAIM  
15 BASED ON THE HUMAN RIGHTS PROVISIONS OF THE NIGERIAN  
16 CONSTITUTION.

17 AND THIRD, THE REQUIREMENT IS THAT THE DEFENDANT BE  
18 SUBJECT TO SUIT IN THE FOREIGN COUNTRY.

19 AND THAT BRINGS ME TO MY SECOND POINT, WHICH IS  
20 THEIR ARGUMENT THAT CHEVRON CORPORATION, THE U.S. PARENT, OUGHT  
21 TO SUBMIT TO JURISDICTION IN NIGERIA.

22 I WOULD SUGGEST THAT THAT'S KIND OF THE ULTIMATE  
23 BOOTSTRAP. THE ONLY REASON THAT CHEVRON CORPORATION HAS BEEN  
24 SUED IN THIS CASE IS BECAUSE THE NIGERIAN SUBSIDIARY IS NOT  
25 SUBJECT TO JURISDICTION IN THE UNITED STATES.

1                   SO TO GET AROUND THAT, THE PLAINTIFFS HAVE  
2                   CONSTRUCTED AN ARGUMENT THAT THEY ARE THE ALTER EGO OF THE --  
3                   THE AGENT, AND SO FORTH, OF THE U.S. COMPANY.

4                   IF THEY SUE IN NIGERIA, NONE OF THOSE THINGS WILL BE  
5                   A PROBLEM. THEY'LL HAVE A NIGERIAN COMPANY THAT IS THERE THAT  
6                   IS SUBJECT TO JURISDICTION, AND IT HAS A LOT OF ASSETS.

7                   AS WE'VE SUGGESTED, I THINK YOU COULD REQUIRE THAT  
8                   CHEVRON CORPORATION MAKE AVAILABLE WITNESSES, MAKE AVAILABLE  
9                   DOCUMENTS, THAT KIND OF THING, TO BE SURE THAT THEY DON'T LOSE  
10                  ANY SOURCE OF EVIDENCE THAT MIGHT BE HERE IN THE UNITED STATES.  
11                  BUT WE THINK THAT'S ALL THAT SHOULD BE REQUIRED.

12                  MS. BAHAN: THANK YOU.

13                  I WILL NOT BELABOR THE POINTS THAT WERE RAISED IN  
14                  OUR SUPPLEMENTAL BRIEFING. ONCE AGAIN, I APPRECIATE THE  
15                  COURT'S ALLOWING ME TO SUBMIT A SUPPLEMENTAL BRIEF ON THIS  
16                  ISSUE.

17                  ESSENTIALLY, YOUR HONOR, THE ARGUMENT IS THAT  
18                  CHEVRON HAS NOT EVEN MET THE THRESHOLD BURDEN OF SHOWING THAT  
19                  IT IS SUBJECT TO JURISDICTION IN NIGERIA. IT IS NOT SUFFICIENT  
20                  TO POINT TO A THIRD-PARTY AND SAY "YOU COULD HAVE SUED THEM."

21                  THAT IS PRECISELY WHAT TEXACO TRIED IN THE JOTA  
22                  CASE, AND THE SECOND CIRCUIT REJECTED THAT.

23                  WE NEED A COMMITMENT OR AN ORDER FROM THE COURT THAT  
24                  THE DEFENDANT ITSELF, AND ALL THE DEFENDANTS -- AND WE DO HAVE  
25                  A SECOND DEFENDANT HERE, MR. SCHULL -- THAT ALL OF THE

1 DEFENDANTS BE SUBJECT TO JURISDICTION IN THE FOREIGN FORUM,  
2 EVEN TO GET TO THE OTHER ISSUES.

3 EVEN IF CHEVRON WERE TO SUBMIT TO JURISDICTION IN  
4 NIGERIA, WE HAVE DEMONSTRATED WITHOUT QUESTION THAT THERE IS NO  
5 ADEQUATE FORUM THERE.

6 FROM THE DECLARATIONS OF OUR EXPERTS, ALL THE WAY TO  
7 THE STATE DEPARTMENT REPORT THAT WAS ISSUED LAST MONTH, THE  
8 UNIVERSAL FINDING IS THAT THE COURTS IN NIGERIA WOULD NOT HEAR  
9 THIS CLAIM; AND EVEN IF THEY DID, THEY COULD NOT PROVIDE A FAIR  
10 FORUM.

11 SO YOU DON'T EVEN REACH THE ISSUE OF WHETHER --  
12 WHETHER WE MEET THE BALANCING TESTS UNDER GILBERT AND, IF SO,  
13 WHETHER WE'RE ENTITLED TO DISCOVERY OF THE -- CONCERNING THE  
14 EVIDENCE THAT CHEVRON HAS SUBMITTED ON THE FORUM NON CONVENIENS  
15 ISSUE.

16 THE COURT: OKAY. THANK YOU. ANYTHING FURTHER?

17 MR. GRENFELL: NO.

18 THE COURT: ALL RIGHT. WE'RE HERE ON THE MOTION OF  
19 DEFENDANT CHEVRON CORPORATION FOR DISMISSAL BASED ON FORUM NON  
20 CONVENIENS. AND I AM DEALING HERE WITH THE DEFENDANT, WHICH IS  
21 THE PARENT COMPANY, A CALIFORNIA HEADQUARTERED CORPORATION, AND  
22 NOT WITH THE NIGERIAN SUBSIDIARY.

23 I'M ALSO GOING TO CONSIDER THE QUESTION OF STRIKING  
24 CERTAIN CAUSES OF ACTION UNDER THE PRINCIPLE OF INTERNATIONAL  
25 COMITY BECAUSE I THINK THEY ARE CLOSELY RELATED ISSUES.

1           NOW, IN THIS ANALYSIS I AM USING THE SECOND AMENDED  
2 COMPLAINT WHICH HAS BEEN FILED, BUT I DON'T REALLY THINK THAT  
3 THE PLAINTIFFS' PROPOSED THIRD AMENDED COMPLAINT, WHICH I HAVE  
4 NOT YET RULED ON, WOULD REALLY MAKE MUCH DIFFERENCE.

5           AS STATED, CHEVRON, THE PARENT COMPANY, CONTENDS  
6 THAT THE ACTION SHOULD BE DISMISSED ON THE GROUNDS OF FORUM NON  
7 CONVENIENS BECAUSE NIGERIA PROVIDES AN ADEQUATE AND AVAILABLE  
8 FORUM AND THE BALANCE OF THE PUBLIC AND PRIVATE INTEREST WEIGHS  
9 IN FAVOR OF A TRIAL THERE. AND THEY ALSO SEEK -- OR IT ALSO  
10 SEEKS TO DISMISS THE STATE COURT CLAIMS BASED ON INTERNATIONAL  
11 COMITY.

12           NOW, FOR FORUM NON CONVENIENS THE CONSIDERATIONS ARE  
13 DEFINED BY THE SUPREME COURT CASE OF PIPER AIRCRAFT VERSUS  
14 RAYNO; AND THAT PERMITS A COURT TO STAY OR DISMISS AN ACTION IF  
15 THE COURT DECIDES THAT IT SHOULD BE MORE APPROPRIATELY TRIED IN  
16 A FOREIGN FORUM, IN THIS CASE, OF COURSE, NIGERIA. AND  
17 DEFENDANT, AS THE MOVING PARTY, BEARS THE BURDEN OF PROOF ON  
18 THAT.

19           NOW, THE FORUM NON CONVENIENS ANALYSIS BREAKS DOWN  
20 INTO SEPARATE STEPS. THE DEFENDANT MUST DEMONSTRATE THE  
21 AVAILABILITY OF AN ADEQUATE FORUM IN NIGERIA, INCLUDING THAT  
22 THE DEFENDANT IS AMENABLE TO SERVICE OF PROCESS THERE.

23           THIS HAS TWO SUBPARTS TO IT. ONE IS THAT WHETHER AN  
24 ALTERNATIVE FORUM IS, QUOTE, AVAILABLE IF ALL PARTIES ARE  
25 AMENABLE TO PROCESS AND WITHIN ITS JURISDICTION; AND, SECONDLY,

1 WHETHER THE ALTERNATIVE FORUM IS ADEQUATE.

2 AND THEN THE SECOND PART OF THE FORUM NON CONVENIENS  
3 TEST IS THE BALANCING OF THE PRIVATE AND PUBLIC INTEREST.

4 NOW, FIRST OF ALL, DEALING WITH THE ADEQUACY OF AN  
5 ALTERNATIVE FOREIGN FORUM, THAT IS, WHETHER NIGERIA IS AN  
6 AVAILABLE ALTERNATIVE FORUM. DEFENDANT MAKES A CASE REGARDING  
7 THE SUFFICIENCY OR LACK OF SUFFICIENCY OF NIGERIA AS AN  
8 ALTERNATIVE FORUM, BUT I THINK DEFENDANT IS MISSING A VITAL  
9 STEP HERE, AND THAT IS, THAT DEFENDANT DOESN'T DEMONSTRATE THAT  
10 CHEVRON IS AMENABLE TO SERVICE OF PROCESS THERE.

11 AND THE WHOLE CONCEPT OF FORUM NON CONVENIENS, OF  
12 COURSE, PRESUPPOSES THAT THERE ARE TWO FORA IN WHICH THE  
13 DEFENDANT IS AMENABLE TO PROCESS.

14 NOW, THIS IS -- THAT IS, THE ESTABLISHING THAT THE  
15 DEFENDANT IS AMENABLE TO SERVICE THERE, IS GENERALLY DONE IN  
16 TWO WAYS: BY SHOWING THAT THE FOREIGN COURT HAS JURISDICTION  
17 OVER IT, WHICH CERTAINLY DOESN'T EXIST HERE, OR BY STIPULATION  
18 OF THE DEFENDANT TO CONSENT TO JURISDICTION THERE, WHICH  
19 CHEVRON CERTAINLY HAS NOT DONE.

20 I DON'T THINK IT'S ENOUGH -- IN FACT, I'M RULING IT  
21 IS NOT ENOUGH THAT ITS FOREIGN SUBSIDIARY, WHO MAY BE A LIABLE  
22 PARTY HERE, IS AMENABLE TO THE COURTS OF NIGERIA. IT,  
23 UNDOUBTEDLY, IS.

24 BUT THAT ENTITY HAS NOT BEEN SUED, AND WHETHER -- SO  
25 THE ISSUE IS REALLY WHETHER THE PARENT COMPANY IS OR CAN BE

1 SUED IN NIGERIA OR HAS CONSENTED TO SUIT THERE.

2 NOW, CHEVRON MAKES ARGUMENTS THAT THE PLAINTIFF HERE  
3 HAS THE WRONG DEFENDANT; THAT IT SHOULD BE SUING THE  
4 SUBSIDIARY; THAT THE PARENT COMPANY HERE DOES NOT HAVE  
5 SUFFICIENT CONTACTS WITH THE TRANSACTION THAT IT CAN BE LIABLE.

6 THOSE THINGS ARE SUBJECT TO MOTIONS, WHICH I WILL BE  
7 HEARING LATER AND WILL SET A DATE WITH YOU FOR THAT IN JUST A  
8 MOMENT.

9 BUT THE ISSUE HERE IS WHETHER THE DEFENDANT, WHOM  
10 THE PLAINTIFF HAS CHOSEN TO SUE, IS AMENABLE TO PROCESS OR  
11 CONSENTED TO PROCESS IN NIGERIA, AND IT HAS NOT.

12 NOW, EVEN IF THIS PROBLEM WERE TO BE ANSWERED  
13 IMMEDIATELY HERE BY COUNSEL SAYING THAT CHEVRON IS WILLING NOW  
14 TO STIPULATE, GENERALLY COURTS HAVE AGREED TO -- HAVE REQUIRED  
15 MORE THINGS THAN THAT FOR THIS KIND OF CONSENT.

16 NOT ONLY A VERBAL CONSENT BY THE DEFENDANT, BUT THAT  
17 THE FOREIGN COURT, IN FACT, EXERCISE JURISDICTION; THAT THE  
18 DEFENDANT AGREE TO SATISFY JUDGMENTS THAT MIGHT BE ENTERED BY  
19 THE FOREIGN COURT; A WAIVER OF THE STATUTE OF LIMITATIONS AND  
20 AGREEMENT TO FACILITATE DISCOVERY; ARRANGEMENT FOR THE  
21 TRANSLATION OF DOCUMENTS, WHICH I GUESS MAY NOT BE NECESSARY IN  
22 NIGERIA; AND TO MAKE WITNESSES AVAILABLE IN THE FOREIGN  
23 JURISDICTION. AND CHEVRON, CERTAINLY, HAS NOT DONE THAT.

24 NOW, DEFENDANTS -- DEFENDANT DOES ARGUE ABOUT THE  
25 ALTER EGO THEORY OF LIABILITY THAT'S BEEN ALLEGED HERE AND IS

1 REALLY TRYING TO BLEND ALTER EGO TOGETHER WITH FORUM NON  
2 CONVENIENS, WHICH I CAN'T DO ON THE BASIS OF THE PRESENT  
3 RECORD.

4 AND CHEVRON ALSO ARGUES ABOUT FAILURES OF PLEADING  
5 AND PROOF, WHICH, AGAIN, IS NOT A MATTER BEFORE ME NOW, BUT  
6 WILL BE BEFORE ME IN THESE LATER MOTIONS.

7 BUT THE WAY IT STANDS RIGHT NOW, PLAINTIFFS DO  
8 CONTEND THAT CHEVRON IS A DIRECT PARTICIPANT. WHETHER THEY'RE  
9 GOING TO BE RIGHT ABOUT THAT, THAT IS, CHEVRON, THE PARENT --  
10 WHETHER THEY'RE GOING TO BE RIGHT OR WRONG ABOUT THAT IS FOR  
11 ANOTHER DAY.

12 AND REGARDLESS OF THEIR THEORY OF LIABILITY, THAT  
13 NIGERIA AT THE MOMENT IS NOT AN ALTERNATIVE FORUM FOR  
14 PLAINTIFF'S SUIT AGAINST THE PARENT CORPORATION.

15 SO I BELIEVE THAT THE FORUM NON CONVENIENS MOTION  
16 MUST BE DENIED STRICTLY ON THE BASIS OF THERE NOT BEING  
17 JURISDICTION OVER CHEVRON IN NIGERIA.

18 NOW, THERE ARE OTHER FACTORS, OF COURSE, AS I'VE  
19 MENTIONED, INVOLVED IN THE FORUM NON CONVENIENS ANALYSIS AND I  
20 WILL JUST ADD, PERHAPS UNNECESSARILY, A FEW COMMENTS ON THAT.

21 WE HAVE A QUESTION ABOUT THE ADEQUACY OF NIGERIAN  
22 LAW AND THE NIGERIAN COURTS. AND I AGREE WITH COUNSEL FOR THE  
23 DEFENDANT THAT THAT IS A MATTER WHICH WE DO NOT INQUIRE INTO IN  
24 GREAT DETAIL.

25 IT IS A SUBJECT OF DISPUTE BETWEEN THE PARTIES, BUT

1 NOT ONE THAT I NEED TO RELY UPON NOW. BUT WE DO EXTEND A  
2 CERTAIN AMOUNT OF DEFERENCE TO A FOREIGN COURT WITH RESPECT TO  
3 ITS PROCESSES AND REMEDIES, ALTHOUGH THERE IS A BASIC  
4 FUNDAMENTAL CONCEPT OF DUE PROCESS WHICH AMERICAN COURTS INSIST  
5 ON.

6 WITH RESPECT TO THE BALANCING OF THE FACTORS,  
7 PUBLIC, PRIVATE -- PUBLIC AND PRIVATE INTERESTS, YOU ALL KNOW  
8 THE DEFINITIONS OF WHAT THE PUBLIC CONCERNS ARE AND ALSO WHAT  
9 THE PRIVATE CONCERNS ARE. YOU'VE BOTH DISCUSSED IT IN YOUR  
10 BRIEFS, SO I WON'T GO INTO THIS IN DETAIL.

11 I DO FEEL THAT THE PUBLIC INTEREST FACTORS DO WEIGH  
12 IN FAVOR OF THE UNITED STATES JURISDICTION RATHER THAN NIGERIAN  
13 JURISDICTION.

14 THE DEFENDANT, CERTAINLY, HAS SOME VALID ARGUMENTS  
15 ABOUT NIGERIA HAVING AN INTEREST IN THESE CONTROVERSIES BECAUSE  
16 THEY INVOLVE NIGERIAN MILITARY, NIGERIAN CITIZENS, WHO ARE  
17 VICTIMS, AND NIGERIAN WITNESSES, AND DEFENDANT'S OWN SUBSIDIARY  
18 THERE.

19 BUT PLAINTIFF CAN -- PLAINTIFF DOES ALSO MAKE SOME  
20 SHOWING OF COMPELLING INTEREST HERE IN CALIFORNIA WITH RESPECT  
21 TO CALIFORNIA CORPORATIONS DOING BUSINESS OVERSEAS AND ALLEGED  
22 HUMAN RIGHTS VIOLATIONS ANYWHERE THAT THEY HAPPEN TO DO  
23 BUSINESS.

24 I THINK SOMETHING IS VERY INTERESTING HERE AND KIND  
25 OF WEIGHING IT IS NOT A CONTROLLING FACTOR, BUT A WEIGHING

1 FACTOR IN THE PUBLIC INTEREST. THIS IS A SUIT UNDER THE ALIEN  
2 TORT CLAIMS ACT. AND I THINK THERE IS A VERY INTERESTING  
3 CONFLICT HERE BETWEEN ASSERTION OF JURISDICTION UNDER THE ACT,  
4 WHICH ALLOWS AN ALIEN TO SUE IN THE UNITED STATES FOR THINGS  
5 THAT OCCURRED OVERSEAS, WITH THE CONCEPT OF FORUM NON  
6 CONVENIENS.

7 ONE COULD MAKE AN ARGUMENT, AS THE PLAINTIFFS HAVE  
8 ATTEMPTED TO DO, OF COURSE, THAT ALIENS SHOULD BE ABLE TO SUE  
9 HERE, REGARDLESS OF FORUM NON CONVENIENS, WHEN THEY'RE SUING  
10 UNDER THAT ACT.

11 NO CASE HAS GONE THAT FAR, BUT I THINK THE CONFLICT,  
12 THAT IS, BETWEEN THE ALIEN TORT CLAIMS ACT AND FORUM NON  
13 CONVENIENS, IS ONE WHERE IT'S GOT TO BE A FACTOR WEIGHING IN  
14 FAVOR OF THE PLAINTIFFS WITH RESPECT TO THE PUBLIC INTEREST  
15 FACTORS.

16 WHEN IT COMES TO THE PRIVATE INTEREST FACTORS, IT  
17 LOOKS TO ME LIKE MOST OF THE WITNESSES ARE GOING TO BE THERE IN  
18 NIGERIA. THAT'S NOT TOTALLY SO, I GUESS, BECAUSE SOME OF THEM  
19 ARE EMPLOYEES OF CHEVRON, AND EMPLOYEES OF THE CHEVRON  
20 SUBSIDIARY WHICH -- WHO MOVE AROUND QUITE A BIT.

21 BUT EVEN IF I ASSUME THAT THE PHYSICAL LOCATION OF  
22 MOST OF THOSE WITNESSES MIGHT BE -- WILL BE IN NIGERIA, THE  
23 PLAINTIFF WILL BEAR THE BURDEN OF BRINGING THE WITNESSES HERE  
24 TO PROVE THEIR CASE.

25 AS FAR AS PROTECTING THE DEFENDANT'S INTERESTS ARE

1 CONCERNED, THOSE THAT ARE -- THAT THEY CAN'T MAKE AVAILABLE  
2 BECAUSE THEY ARE NOT EMPLOYEES, OF COURSE, THERE ARE PROVISIONS  
3 FOR THE TAKING OF INTERNATIONAL DEPOSITIONS. SO FOR THOSE  
4 REASONS, THE FORUM NON CONVENIENS MOTION IS DENIED.

5 NOW, WITH RESPECT TO THE MOTION TO DISMISS THE STATE  
6 COURT ACTION -- THE STATE COURT CLAIMS BASED ON INTERNATIONAL  
7 COMITY, AGAIN, I THINK THAT THE RESOLUTION OF THIS DIFFERS  
8 ACCORDING TO WHAT VIEW OF THE CASE YOU ARE TAKING HERE. AND  
9 THAT IS, IF THIS IS, INDEED, A SUIT AGAINST THE PARENT  
10 CORPORATION, WHICH ON ITS FACE IT IS, THEN YOU GET ONE RESULT.

11 ON THE OTHER HAND, IF THIS IS PROPERLY A SUIT  
12 AGAINST THE NIGERIAN SUBSIDIARY, WHICH AT THE MOMENT IT IS NOT,  
13 IT COMES OUT ON DIFFERENT RESULTS WHETHER THIS COMITY PRINCIPLE  
14 SHOULD APPLY.

15 BUT WHAT I THINK IS THAT THE COMPLAINT, AS PRESENTLY  
16 PLED, THAT I CANNOT CONCLUDE THAT CALIFORNIA HAS NO INTEREST IN  
17 REGULATING THE CONDUCT OF CORPORATIONS THAT ARE HEADQUARTERED  
18 HERE, EVEN IF THE CONDUCT OF THE CORPORATIONS -- CORPORATION IS  
19 OVERSEAS.

20 SO I THINK AT BOTTOM HERE, WHEN I TAKE A LOOK AT  
21 THESE ARGUMENTS AS A WHOLE, I THINK THE DEFENSE ARGUMENT IS  
22 REALLY THAT ITS SUBSIDIARY, ITS NIGERIAN SUBSIDIARY, AND NOT IT  
23 IS THE ONLY ONE WHO CAN OR SHOULD BE LIABLE.

24 BUT THAT ISSUE IS FOR A LATER DAY IN THE MOTIONS  
25 THAT ARE COMING UP. SO I'M DENYING THE MOTION BASED ON

1 INTERNATIONAL COMITY ALSO.

2 NOW, WE STILL HAVE PENDING THE PLAINTIFFS' MOTION TO  
3 AMEND, THE DEFENDANT'S COUNTERMOTION FOR SANCTIONS WITH RESPECT  
4 TO THAT, THE DEFENSE MOTION UNDER 12(B)(6) ON TWO GROUNDS, AND  
5 THE -- WITH RESPECT TO THE PARIBE, P-A-R-I-B-E, INCIDENT, FOR  
6 LACK OF JURISDICTION AND SUMMARY JUDGMENT, AND THE NOTION THAT  
7 THE -- AS TO THAT INCIDENT, THE COMPLAINT SHOULD BE BARRED  
8 BECAUSE OF THE STATE ACTION DOCTRINE.

9 NOW, I THINK WE'VE GOT TO GET THOSE ON CALENDAR. I  
10 THINK YOUR BRIEFING IS DONE. IF I WAIT FOR AN ORDINARY FRIDAY  
11 CALENDAR, LAW AND MOTION CALENDAR, I CAN'T GET YOU ON UNTIL MAY  
12 12TH.

13 BUT I CAN PUT YOU ON SOONER, SAY, THE LAST WEEK IN  
14 APRIL, ON A THURSDAY AFTERNOON, OR WEDNESDAY AFTERNOON.

15 MS. BAHAN: YOUR HONOR, ONE POINT. THE BRIEFING ON  
16 THE SANCTIONS MOTION IS NOT COMPLETE YET.

17 THE COURT: OKAY. WELL, YOU'VE GOT TIME TO FINISH  
18 THAT.

19 MS. BAHAN: OKAY.

20 THE COURT: SO ARE YOU AVAILABLE ON WEDNESDAY, THE  
21 26TH, OR THURSDAY, THE 27TH?

22 MS. BAHAN: EITHER WOULD BE OKAY WITH US.

23 MR. GRENFELL: THOSE DATES ARE ACCEPTABLE. WOULD  
24 THAT BE ALL OF THE PENDING MOTIONS?

25 THE COURT: YES, ALL THE PENDING MOTIONS, BECAUSE

1       THEY ARE ESSENTIALLY -- IN THE REPLY YOU POINT OUT ALL THE  
2       BRIEFING IS DONE. IT IS TIME FOR ME TO DO MY HOMEWORK IS WHAT  
3       I NEED. SO THAT IS ALL RIGHT.

4                I WOULD PLAN TO TAKE UP FIRST THE MOTION TO AMEND  
5       AND THE COUNTERMOTION FOR SANCTIONS, AND THEN TAKE UP THE OTHER  
6       FOUR MOTIONS WHICH I MENTIONED.

7                ALL RIGHT. LET'S MAKE IT WEDNESDAY, APRIL 26TH, AT  
8       2:00 O'CLOCK.

9                MS. BAHAN: THANK YOU, YOUR HONOR.

10               MS. COHN: THANK YOU, YOUR HONOR.

11               MR. GRENFELL: I'M SORRY, THE TIME, YOUR HONOR?

12               THE COURT: 2:00 O'CLOCK.

13

14                               (HEARING CONCLUDED)

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CERTIFICATE OF REPORTER

I, ROBERTA L. ROGERS, OFFICIAL REPORTER FOR THE UNITED STATES COURT, NORTHERN DISTRICT OF CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IN C-99-2506 CAL, LARRY BOWOTO, ET AL. VS. CHEVRON CORP. WERE REPORTED BY ME, A CERTIFIED SHORTHAND REPORTER, AND WERE THEREAFTER TRANSCRIBED UNDER MY DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS AS BOUND BY ME AT THE TIME OF FILING.

THE VALIDITY OF THE REPORTER'S CERTIFICATION OF SAID TRANSCRIPT MAY BE VOID UPON DISASSEMBLY AND/OR REMOVAL FROM THE COURT FILE.

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ROBERTA ROGERS, CSR 1729, RPR, RMR, FCRR  
WEDNESDAY, APRIL 19, 2000

