

## BP asks Texas judge to dismiss British lawsuits



Steve Campbell, Staff

**U.S. District Judge Keith Ellison has a chandelier in his chambers. Judge Ellison is a bit of a courthouse maverick. Instead of portraits of old retired judges, he has modern art in and around his courtroom. He has a chandelier in his chambers and the space outside his court looks like a hotel lobby. All of this is done at his expense. Wednesday, Aug. 6, 2008, in Houston. ( Steve Campbell / Chronicle)**

**By Collin Eaton**

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Attorneys for BP asked a Houston judge on Friday to dismiss a case in which British investors are seeking damages in Texas for the 2010 Gulf of Mexico oil spill.

U.S. District Judge Keith Ellison heard arguments on BP's motion to dismiss a series of lawsuits by investors who bought BP securities in the United Kingdom and seek to sue the company in the United States over their stock market losses after the spill.

They allege BP misled investors about the severity of the oil spill after BP's Macondo well blew out on April 20, 2010. In December, Ellison OK'd a series of lawsuits that included a separate group of investment managers from the UK.

BP attorney Daryl Libow, a partner at Sullivan Cromwell, argued in court Friday that allowing the securities case against BP to go forward in Texas could expose the U.S. legal system to a slew of foreign securities lawsuits because the U.S. courts are viewed as a more favorable venue for investors in such disputes.

Libow argued that in a previous case the U.S. Supreme Court expressed the concern that the U.S. legal system is becoming the venue of choice for class action litigation by plaintiffs allegedly cheated overseas. The investors, he argued, wished to avoid a U.K. rule requiring payments by those who bring unsuccessful lawsuits, and to gain other advantages by suing in the United States.

The more than 65 plaintiffs under 10 separate securities cases against BP "are trying to forum shop," Libow said. "It's opportunism. "

"You'll have every U.K. and Australian investor bringing lawsuits here," Libow told the judge. "That's not what the Supreme Court intended."

Plaintiff attorney Matthew Tuccillo, with New York law firm Pomerantz Law, said the opportunism claim doesn't hold up, noting that since BP filed to dismiss the cases, only one additional case has been filed against the company.

BP's attorneys also asked Ellison to dismiss the lawsuits under the Securities Litigation Uniform Standards Act, a federal law designed to prohibit plaintiffs from using state laws to bring certain securities lawsuits. BP argues that Congress intended the act to be interpreted broadly enough to limit plaintiffs from invoking foreign law in securities suits.

Even if a plaintiff files a claim under English or other foreign law rather than state law, the claim is subject to the limitations of the Uniform Standards Act, said BP lawyer Marc De Leeuw, also with Sullivan & Cromwell.

Tuccillo argued that when Congress passed the securities law in 1995, it didn't mean for "state" to be interpreted as anything other than a U.S. state or subdivision.

"The defendants ask the court to do nothing less than rewrite a statute written by Congress to fit their purposes," Tuccillo said, pointing to language in the law that referred to interstate commerce.

Ellison said the plaintiffs had "a very strong argument on this point."

"'State' is just a term that I have a hard time stretching to include foreign entities," the judge said.

Ellison didn't rule on the matter Friday.

In May, he granted class certification to a group of U.S. investors who planned to sue for an estimated \$2.5 billion over allegations BP misled shareholders on how much oil spilled into the Gulf of Mexico in 2010. That case is scheduled to go to trial next year.

Ellison the same month denied class certification to a larger set of shareholders who had alleged BP misled them for two years on the safety aspects of its deep-water drilling operations.

BP has allotted \$42.7 billion for oil spill costs and has spent some \$27 billion on cleanup efforts and compensation.