

Judge allows investor suits over Gulf spill to proceed



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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BP failed to persuade a Texas federal judge to dismiss several lawsuits brought by American and British institutional investors claiming the oil company misled them about the impact of the 2010 Gulf of Mexico oil spill.

In a series of rulings unsealed Wednesday, U.S. District Judge Keith Ellison in Houston disagreed

with many of BP's arguments for killing the securities lawsuits brought by foreign investors and U.S. public pension funds. Ellison allowed 85 plaintiffs' cases to move forward. Fifteen others survived BP's efforts to dismiss them last year, and 20 more are still pending.

In this round, the U.S. public pensions and foreign investors alleged BP misled them about its safety procedures in oil drilling, as well as the size of the 2010 oil spill, the company's ability to contain the spill and its likely responsibility for the disaster.

The plaintiffs said the misstatements cost them "tens of millions of dollars in losses" when BP shares fell as the gravity of the disaster became clearer.

BP spokesman Geoff Morrell declined to comment.

The rulings disclosed this week involved plaintiffs in the second of three groups of lawsuits before Ellison. In May, the judge granted class certification to a group of U.S. shareholders seeking \$2.5 billion in damages for similar allegations of misstatements before the company's stock collapsed. A trial is scheduled for next year on those claims.

BP argued the U.K. investors are shopping around for the most favorable forum for securities cases.

BP had told Ellison that a U.S. statute designed to kill U.S. securities lawsuits brought under state law prohibits the U.K. investors' suits because "state" law could mean English common law. Ellison disagreed in his ruling, saying the Exchange Act defines "state" as a U.S. state and doesn't apply to foreign claims.

The oil company also argued that under a certain case law doctrine, England is a more appropriate venue for the cases. But Ellison said BP failed to prove private and public interests were weighty enough to shift the suits across the Atlantic Ocean.

The ruling is significant, said plaintiff attorney Matthew Tuccillo, with the New York law firm Pomerantz Law, "because it permits foreign institutional investors to pursue losses from foreign traded securities under English law in U.S. federal court."

In a separate ruling late Tuesday, Ellison allowed suits by U.S. public pension funds to move forward as well. BP had argued that some fall outside the two-year statute of limitations, but Ellison disagreed.

Some of Ellison's decisions went BP's way.

The judge dismissed some alleged misstatements because the plaintiffs failed to prove they were actionable. He also dismissed as defendants in the U.K. suits four former BP executives, including John Browne, who was CEO from 1995 to 2007.