U.S., U.K. securities suits against BP move forward

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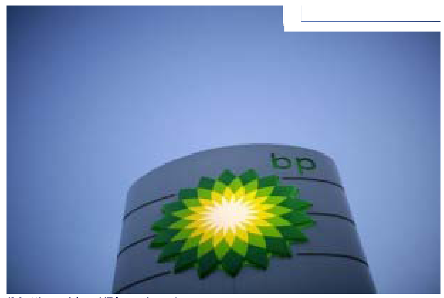

(Matthew Lloyd/Bloomberg)

HOUSTON – BP failed to persuade a Texas federal judge to dismiss several lawsuits brought by U.S. and U.K. institutional investors who claim the London oil company misled them about the impact of the Deepwater Horizon oil spill.

In a series of rulings unsealed Wednesday, U.S. District Judge Keith Ellison in Houston disagreed with many of BP's case-killing arguments against securities lawsuits brought by foreign investors and U.S. public pension funds, allowing 85 of the 120 plaintiffs bringing claims before the Texas federal court to move forward into discovery. Fifteen others survived BP's efforts to dismiss them last year.

In this round, the U.S. public pensions and foreign investors like Avalon Holdings 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" once BP shares fell, and they're seeking compensation for those losses.

Private and public interest "must weigh heavily in favor of England to disrupt the foreign plaintiffs' choice of forum," Ellison wrote. "Because it does not, the court once again declines to dismiss English law, securities fraud claims."

BP spokesman Geoff Morrell declined to comment.

The plaintiffs in 12 separate securities cases made up the second of three tranches of lawsuits that Ellison will consider. 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.

In court, BP argued the U.K. investors are **shopping around for the most favorable forum** for securities cases. In the U.K., lawsuit losers pay for the winners' court costs.

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 on Wednesday, saying the Exchange Act defines "state" as a U.S. state and doesn't apply to foreign claims.

The London 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.

"BP tried and failed to knock out large numbers of plaintiffs by this motion," said plaintiff attorney Matthew Tuccillo, with New York law firm Pomerantz Law. The ruling "is extremely significant because it permits foreign institutional investors to pursue losses from foreign traded securities under English law in U.S. federal court."

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

A few of Ellison's decisions did go BP's way on Wednesday. The judge dismissed some alleged misstatements because the plaintiffs failed to prove they were actionable. He also dismissed former BP CEO Lord Browne, former BP E&P CEO Andrew Inglis, former BP chairman Peter Sutherland and former BP chief financial officer Byron Grote as defendants in the U.K. suits, and dismissed claims against former BP vice president David Rainey and Inglis in the U.S. suits.

BP's stock price on the New York Stock Exchange fell significantly in the months after the April 20, 2010 spill, dropping more than 50 percent from the day of the disaster to a low of $27.02 on June 20, 2010. The price has steadily risen back up to $43.71.

Investors sent the stock price down again earlier this month when, in a separate civil case, U.S. District Judge Carl Barbier found BP had been grossly negligent in the days before a torrent of oil escaped from its Macondo well in the Gulf, miles from the Louisiana coast. Oil flowed into the ocean for 87 days after a fatal explosion and fire on BP's leased Deepwater Horizon production platform that cost the lives of 11 workers.

The company has so far paid $28 billion for cleanup costs and damages. If Barbier sides with federal prosecutors on how much oil spilled into the Gulf, BP could face up to $18 billion in pollution fines under the Clean Water Act, bringing its total bill for the spill to around $50 billion. BP made $23 billion in profit last year.