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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KEN WIWA, et al.,
Plaintiffs,
-against-

96 Civ. 8386 (KMW) (HBP)

ROYAL DUTCH PETROLEUM CO., et al.,
Defendants.

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KEN WIWA, et al.,
Plaintiffs,
-against-

01 Civ. 1909 (KMW) (HBP)

BRIAN ANDERSON,
Defendant.

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ESTHER KIOBEL, et al.,
Plaintiffs,
-against-

02 Civ. 7618 (KMW) (HBP)

ROYAL DUTCH PETROLEUM CO., et al.,
Defendants.

ORDER

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KIMBA M. WOOD, U.S.D.J.:

This order addresses a pending discovery dispute in one of the three above-captioned actions, Kiobel v. Royal Dutch Petroleum Co., 02 Civ. 7618 ("Kiobel"), that involves Plaintiffs' redaction of documents produced to Defendants in accordance with

Magistrate Judge Pitman's May 13, 2004 Order (the "Pitman Order"), 96 Civ. 8386 D.E. 124. Defendants contend that Plaintiffs should produce unredacted, or at least less redacted, versions of these documents. Defendants requested leave of the Court to file a motion to compel such production. Instead, the Court ordered Plaintiffs to produce unredacted versions of the documents to the Court for in camera review (the "in camera documents").

The Court reviewed the in camera documents to ascertain if any of the redacted text is responsive to the Pitman Order, which requires Plaintiffs and their counsel to produce to Defendants "all documents in their possession, custody or control concerning any payments, reimbursements of expenses or prepayment of expenses to or for the benefit of the witnesses to be deposed in Benin." Pitman Order 2.

The Court then reviewed any responsive, but redacted, text to ascertain whether, as Plaintiffs contend, it was protected work product. To the extent that the Court deemed any responsive, but redacted, text to be work product, it "protect[ed] against disclosure of the mental impressions, conclusions, opinions, or legal theories of" Plaintiffs' counsel or their counsel's agents.¹ Fed. R. Civ. P. 26(b)(3)(C).

¹ In addition to considering responsiveness and work-product protections, the Court reviewed the documents for consistency of redaction. Some text appeared in more than one document. If text was

The Court has completed its review of the in camera documents and is ordering Plaintiffs to provide less redacted versions of some of the documents. Specifically, the Court has altered the in camera documents to indicate text that Plaintiffs must produce to Defendants in unredacted form (the "altered in camera documents"). On the altered in camera documents, the Court has enclosed, in boxes marked with red ink, text that Plaintiffs must unredact. The Court is providing Plaintiffs with copies of the altered in camera documents and is filing a copy of these documents under seal.

Plaintiffs shall produce to Defendants and to the Court a new set of redacted documents. This new set of redacted documents shall have the following text unredacted: (1) all the text unredacted in the version of these documents Plaintiffs originally produced to Defendants, and (2) all the text that the Court has enclosed in a red ink box in the altered in camera documents. Plaintiffs shall do so by March 16, 2009.

SO ORDERED.

Dated: New York, New York
February 24, 2009



Kimba M. Wood

United States District Judge

unredacted in one document, the Court unredacted it in any other documents that repeated the same text.