

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LUIS ALBERTO GALVIS MUJICA, on behalf of himself and as representative of the Estates of Tereza Mujica Hernan, Edilma Leal Pacheco and Johanny Hernandez Becerra; MARIO GALVIS GELVEZ, on behalf of himself, individually, and as heir of the decedents Tereza Mujica Hernandez, Edilma Leal Pacheco and Johanny Hernandez Becerra; JOHN MARIO GALVIS MUJICA, through his guardian ad litum and on behalf of himself, individually, and as heir of the decedents Terza Mujica Hernandez, Edilma Leal Pacheco and Johanny Hernandez Becerra,

Plaintiffs-Appellants,

v.

OCCIDENTAL PETROLEUM CORPORATION; AIRSCAN INC.,
Defendants-Appellees.

No. 05-56056
D.C. No.
CV-03-02860-WJR
Central District of
California,
Los Angeles

LUIS ALBERTO GALVIS MUJICA, on behalf of himself and as representative of the Estates of Tereza Mujica Hernan, Edilma Leal Pacheco and Johanny Hernandez Becerra; MARIO GALVIS GELVEZ, on behalf of himself, individually, and as heir of the decedents Tereza Mujica Hernandez, Edilma Leal Pacheco and Johanny Hernandez Becerra; JOHN MARIO GALVIS MUJICA, through his guardian ad litem and on behalf of himself, individually, and as heir of the decedents Terza Mujica Hernandez, Edilma Leal Pacheco and Johanny Hernandez Becerra,

Plaintiffs-Appellees,

v.

OCCIDENTAL PETROLEUM CORPORATION,

Defendant-Appellant,

and

AIRSCAN INC.,

Defendant.

No. 05-56175

D.C. No.
CV-03-02860-WJR
Central District of
California,
Los Angeles

LUIS ALBERTO GALVIS MUJICA, on behalf of himself and as representative of the Estates of Tereza Mujica Hernan, Edilma Leal Pacheco and Johanny Hernandez Becerra; MARIO GALVIS GELVEZ, on behalf of himself, individually, and as heir of the decedents Tereza Mujica Hernandez, Edilma Leal Pacheco and Johanny Hernandez Becerra; JOHN MARIO GALVIS MUJICA, through his guardian ad litum and on behalf of himself, individually, and as heir of the decedents Terza Mujica Hernandez, Edilma Leal Pacheco and Johanny Hernandez Becerra,

Plaintiffs-Appellees,

v.

OCCIDENTAL PETROLEUM CORPORATION,

Defendant-Appellant,

and

AIRSCAN INC.,

Defendant.

No. 05-56178
 D.C. No.
 CV-03-02860-WJR
 Central District of
 California,
 Los Angeles
 ORDER

Appeal from the United States District Court
 for the Central District of California
 William J. Rea, District Judge, Presiding

Argued and Submitted April 19, 2007
Submission Deferred August 23, 2007
Resubmitted May 11, 2009
Seattle, Washington

Filed May 11, 2009

Before: Jerome Farris and Ronald M. Gould, Circuit Judges,
and Kevin Thomas Duffy,* Senior District Judge.

COUNSEL

Bridget Arimond and Douglas W. Cassel, Center for International Human Rights, Northwestern University Law School, Chicago, Illinois; Terry Collingsworth, International Labor Rights Fund, Washington, D.C.; Paul L. Hoffman, Schonbrun DeSimone Seplow Harris & Hoffman, Venice, California; Daniel M. Kovalik, Pittsburgh, Pennsylvania, for the plaintiffs-appellants.

Manuel F. Cahn, Daniel P. Collins, Daniel L. Geysler, and John W. Spiegel, Munger, Tolles & Olson, Los Angeles, California; Kristin Linsley Myles, Munger, Tolles & Olson, San Francisco, California, for defendant/appellee/cross-appellant Occidental Petroleum Corporation.

Kenneth J. Berke, Berke & Kent, Calabasas, California; Sara M. Fotopulos and Thomas E. Fotopulos, Fotopulos & Fotopulos, Riverview, Florida, for defendant/appellee/cross-appellant Airscan, Inc.

Marco B. Simons and Richard L. Herz, Earthrights International, Washington, D.C., for the amicus Earthrights International.

*The Honorable Kevin Thomas Duffy, Senior United States District Judge for the Southern District of New York, sitting by designation.

William J. Aceves, California Western School of Law, San Diego, California; Sarah H. Cleveland, Columbia Law School, New York, New York; William S. Dodge, University of California, Hastings College of the Law, San Francisco, California, for the amicus Constitutional and International Law Professors.

Ralph G. Steinhardt, George Washington University School of Law, Washington, D.C., for the amicus International Law Scholars.

Tyler Giannini, Cambridge, Massachusetts, for the amicus U.S. Career Foreign Service Diplomats.

John B. Bellinger, III, Gregory Katsas, Douglas N. Letter, Robert M. Loeb, Sharon Swingle, and Debra Wong Yang, for the amicus The United States.

ORDER

In light of the intervening authority of *Sarei v. Rio Tinto*, 550 F.3d 822 (9th Cir. 2008) (en banc), this case is remanded to the district court to consider whether a prudential exhaustion requirement applies in this case, and if so, whether that requirement bars any claims in this case. On remand, the district court should also consider the effect, if any, of the decision of the Council of State of the Republic of Colombia in *Mario Galvis Gelves, et al. v. The Nation*, slip op. (Council of State, Rep. of Colombia, Ad. Law Div., Sec. 3, Dec. 13, 2007) and the decision of the Court No. 12 for Criminal Matters of the Circuit of Bogot of the Republic of Colombia in *In re Cesare Romero Pradilla, et al.*, slip op. (Sept. 21, 2007).

REMANDED.

PRINTED FOR
ADMINISTRATIVE OFFICE—U.S. COURTS
BY THOMSON REUTERS/WEST—SAN FRANCISCO

The summary, which does not constitute a part of the opinion of the court, is copyrighted
© 2009 Thomson Reuters/West.