

Chambers Copy

DESIGNATIONS OF DEPOSITION TESTIMONY OF FREDERICK R. GORELL
 (Testifying By Way of Deposition Only)
 (Counter-Designations in italicized text)
 Deposition December 3, 2005


Plaintiffs' Designations	Defendants' Objections and Counter-Designations	Plaintiffs' Responses to Defendants' Objections and Counter-Designations	Defendants' Designations	Plaintiffs' Objections and Counter-Designations	Defendants' Responses to Plaintiffs' Objections and Counter-Designations
8:12-14					
33:12-14					
34:20-35:9					
35:18-36:3					
37:11-20					
38:15 (starting with "does")-38:22					
			45:18-21		
			82:20-84:13		
Exhibit 2023	The article is inadmissible, it has multiple levels of hearsay, it has not been	Deponent authenticates the document by recognizing that he said made the			

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110:19-111:7	<p>authenticated and was not a business record of defendants, the prejudice far exceeds any relevance because the comments attributed to the deponent do not concern Parabe (rather unidentified alleged "crackdowns," as stated by the author) and are not direct quotes. FRE 401-403, 802, 901.</p> <p>The pages cited by plaintiffs to support their argument that the document was authenticated concern a different exhibit (exhibit 2024).</p>	<p>statements in question. (See 114:19-115:1, 115:10-11).</p> <p>Not hearsay; an element of the ratification claim is that the defendant actually said the statements at issue.</p> <p>Not unfairly prejudicial, necessary for the ratification claim.</p>			
110:22-111:1	<p>Title of the article is hearsay, irrelevant and prejudicial. FRE 401-</p>	<p>Not hearsay – not offered for the truth of the matter but simply as identification</p>			

will file with response

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	403, 802. Deponent's agreement as to the title of the article is not relevant. FRE 401-403, 1002. <i>Completeness designation: 111.8-14.</i> 	of the article. Relevant for identification of the article. Not prejudicial, as it makes no implication as to defendants' conduct. Defendants' completeness designation is unnecessary for identification of the article in which deponent made statements, and it is irrelevant. Nigeria's positive steps toward democracy are not at issue. FRE 401-403.			
111:15-112:9	Irrelevant, prejudicial and misleading because it is unclear that the statements relate to Parabe, rather they appear to respond to allegations of "crackdowns" made by the author. FRE	Relevant, because the degree to which the military had access to company equipment is probative as to agency and other liability theories.			

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	401-403. This article post-dates Parabe so is not probative of the "degree to which the military had access to company property." Moreover, if post-Parabe evidence is allowed in against defendants, then defendants should be able to put in evidence of ethnic group violence that was driving the need for protection. FRE 401-403.				
			112:10-12		
Exhibit 2025	Admission of the article violates the Court's order that an article "may be presented only to the extent necessary to explain	The article is relevant because an element of plaintiffs' ratification claim is to show that defendants actually made the			

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	defendants' responses for purposes of demonstrating agency, ratification, etc. The reports are not otherwise admissible." Dkt. # 2001. The article also concerns Opia/Nkanyan and should be excluded pursuant to the Court's direction that Opia/Ikenyan evidence "will be excluded on FRE 403 grounds if unfairly prejudicial or if redaction cannot be effected without the creation of undue prejudice." <i>Id.</i> The only incident mentioned in the article is Opia/Ikenyan, so the redactions proposed by plaintiffs make the article more prejudicial. It misleads the jury to believe that the article concerns	statements in question. Deponent is quoted in this article, saying "The bottom line of it all is Chevron has not been involved or connected to any internal police activities in Nigeria." Plaintiffs will redact any portions of the Exhibit that refer to Opia and Ikenyan.			

is redacted to include to prevent Opia & Ikenyan

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	Parabe because that is the only incident about which the jury is aware. FRE 401-403.				
116:7-10					
117:15-118:12	Testimony concerns response to questions about Opia/Ikenyan and is therefore prejudicial, misleading and violates the Court's order that an article "may be presented only to the extent necessary to explain defendants' responses for purposes of demonstrating agency, ratification, etc. The reports are not otherwise admissible," and that Opia/Ikenyan evidence "will be excluded on FRE 403	The testimony in question does not refer to Opia/Ikenyan and cannot prejudice the jury. The responses relate to Chevron's ownership of helicopters in general, and defendants' statements that Chevron does not own helicopters is at issue in the ratification claim. The article is presented only to show that defendants made the statement – an element of the ratification claim. Also relevant to the question		Will give him the instruction requested	


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	grounds if unfairly prejudicial or if redaction cannot be effected without the creation of undue prejudice." Dkt. # 2001; FRE 401-403.	of agency and the relationship between CNL and the military. The title is not hearsay because it is presented for identification of the article, not for the truth of the matter.			
	Plaintiffs' claim that the statement refers to "ownership of helicopters in general," is disingenuous because the only incident referred to in the article is "one 'particularly serious incident'" at Opia/Kenyan.				
	117:21-22: Title of the article is hearsay and prejudicial. FRE 401-403, 802.				
119:18-22	Testimony concerns response to questions about	The testimony in question does not refer to			

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120:10-14	Opia/Ikenyan and is therefore prejudicial, misleading and violates the Court's order that an article "may be presented only to the extent necessary to explain defendants' responses for purposes of demonstrating agency, ratification, etc. The reports are not otherwise admissible," and that Opia/Ikenyan evidence "will be excluded on FRE 403 grounds if unfairly prejudicial or if redaction cannot be effected without the creation of undue prejudice." Dkt. # 2001; FRE 401-403.	Opia/Ikenyan and cannot prejudice the jury. The responses relate to Chevron's ownership of helicopters in general, and defendants' statements that Chevron does not own helicopters is at issue in the ratification claim. The article is presented only to show that defendants made the statement – an element of the ratification claim. Also relevant to the question of agency and the relationship between CNL and the military. Defendants mischaracterize the designation. It is not about deponent's lack of recollection – deponent admits that "that is what I was saying to a number of			

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	"ownership of helicopters in general," is disingenuous because the only incident referred to in the article is "one 'particularly serious incident'" at Opia/Ikenyan. FRE 401-403.	reporters at the time." Whether defendants made these statements is an element of the ratification claim.			
	Deponent's lack of recollection is irrelevant and examination calls for speculation. FRE 401-403, 602.				
	<i>120:15-21 (only if above passage is permitted)</i> 				
121:3-15	Testimony concerns response to questions about Opia/Ikenyan and is therefore prejudicial, misleading and violates the Court's order that an article	The testimony in question does not refer to Opia/Ikenyan and cannot prejudice the jury. The responses relate to Chevron's ownership of			

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	<p>"may be presented only to the extent necessary to explain defendants' responses for purposes of demonstrating agency, ratification, etc. The reports are not otherwise admissible," and that <i>Opia/Ikenyan evidence</i> will be excluded on FRE 403 grounds if unfairly prejudicial or if redaction cannot be effected without the creation of undue prejudice." Dkt. # 2001; FRE 401-403.</p>	<p>helicopters in general, and defendants' statements that Chevron does not own helicopters is at issue in the ratification claim. The article is presented only to show that defendants made the statement – an element of the ratification claim. Also relevant to the question of agency and the relationship between CNL and the military. Defendants mischaracterize the designation. It is not about deponent's lack of recollection – deponent admits that "that is what I was saying to a number of reporters at the time." Whether defendants made these statements is an element of the ratification</p>			
	<p>Plaintiffs' claim that the statement refers to "ownership of helicopters in general," is disingenuous because the only incident referred to in the article is</p>				

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	<p>"one 'particularly serious incident'" at Opia/Ikenyan. FRE 401-403.</p> <p>Depoent's lack of recollection is irrelevant and examination calls for speculation. FRE 401-403, 602.</p>	claim.			
124:16-19	<p>Testimony concerns response to questions about Opia/Ikenyan and is therefore prejudicial, misleading and violates the Court's order that an article "may be presented only to the extent necessary to explain defendants' responses for purposes of demonstrating agency, ratification, etc. The reports are not otherwise</p>	<p>The testimony in question does not refer to Opia/Ikenyan and cannot prejudice the jury. The responses relate to Chevron's ownership of helicopters in general, and defendants' statements that Chevron does not own helicopters is at issue in the ratification claim. The article is presented only to show that defendants made</p>			

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	admissible," and that Opia/Kenyan evidence "will be excluded on FRE 403 grounds if unfairly prejudicial or if redaction cannot be effected without the creation of undue prejudice." Dkt. # 2001; FRE 401-403.	the statement – an element of the ratification claim. Also relevant to the question of agency and the relationship between CNL and the military. The fact that deponent does not remember calling Ms. Simmons to correct the article is relevant, as jury could conclude that the concealment of the truth was deliberate.			
	Plaintiffs' claim that the statement refers to "ownership of helicopters in general," is disingenuous because the only incident referred to in the article is "one 'particularly serious incident'" at Opia/Kenyan. FRE 401-403. Deponent's lack of recollection is irrelevant. FRE 401-403, 602.				

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Exhibit 2026 (O/I redacted)	The article is inadmissible, it has multiple levels of hearsay, the prejudice and confusion far exceeds any relevance because some of the comments attributed to the deponent do not concern Parabe or concern both Parabe and Opa/Ikenyan and are not direct quotes. FRE 401-403, 802.	Not hearsay -- the article is presented not for the truth of the matter, but rather for the fact that deponent made the statements in question, an element of the ratification claim. All the statements either relate to Parabe or are general statements of fact that are disputed in plaintiffs' ratification claim.			
	Admission of the article violates the Court's order that an article "may be presented only to the extent necessary to explain defendants' responses for purposes of demonstrating agency, ratification, etc. The reports are not otherwise admissible." Dkt. # 2001. The article also				

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	concerns Opia/Ikenyan and should be excluded pursuant to the Court's direction that Opia/Ikenyan evidence "will be excluded on FRE 403 grounds if unfairly prejudicial or if redaction cannot be effected without the creation of undue prejudice." <i>Id.</i> (The redactions increase the prejudice because the jury is misled to believe the article exclusively concerns Parabe, which it does not.				
125:16-18					
126:18-127:7	126:21-127:7: Title and author of article is hearsay and irrelevant and prejudicial. FRE 401-403,	Not hearsay - title and author are presented not for the truth of the matter, but rather for identification of		<i>Will file objections</i>	

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	802.	the article.			
128:11-22	Calls for speculation and deponent's lack of recollection is irrelevant and misleading. FRE 401-403, 602.	Relevant – whether or not the deponent made the statement is an element of the ratification claim.			
131:10-20	Calls for speculation and deponent's lack of recollection is irrelevant and misleading. FRE 401-403, 602.	Relevant – whether or not the deponent made the statement is an element of the ratification claim.			
132:10-134:6	Calls for speculation and deponent's lack of recollection is irrelevant and misleading. FRE 401-403, 602. 133:8:134:6: Lack of recollection is irrelevant.	Withdrawn 133:8:134:6: Relevant – whether or not the deponent made the statement is an element of the ratification claim. Opia and Ikenyan are not			

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	Plaintiffs are taking an isolated statement out of context and are trying to mislead the jury to believe the statement concerns Parabe, which it does not. The incident when "the military's assault [d] the contractors' equipment," was Opia/Ikenyan, as made clear at 100:10-103:7 , 132:11-133:8. The testimony should be excluded pursuant to the Court's direction that Opia/Ikenyan evidence would be excluded under 403 if unfairly prejudicial. Dkt. 2001, FRE 401-403. The jury will be misled that the statement concerns Parabe.	mentioned, so the jury cannot be prejudiced. This statement is relevant to plaintiffs' ratification argument about statements on whether the military might have required Chevron to take soldiers to Parabe, and whether defendants own helicopters.			

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134:13-135:10	Testimony is irrelevant and misleading because deponent does not recall making the quoted statements. FRE 401-403.	Relevant – whether or not the deponent made the statement is an element of the ratification claim.			
Exhibit 2035	The document is inadmissible and witness does not recall seeing the document so cannot properly authenticate it. FRE 401-403, 901.	Plaintiffs agree to WITHDRAW this designation and exhibit.			
174:3-11	Deponent's lack of recollection of ever seeing the document is irrelevant. FRE 401-403.	Plaintiffs agree to WITHDRAW this designation.	OK		
			176:8-22; 177:9-19	In light of plaintiffs' agreement to withdraw the original designation, defendants' designation is	The designation is not misleading given plaintiffs' withdrawal. Rather, it shows that the deponent's

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				irrelevant and beyond the scope. In addition, plaintiffs are not introducing any of Chevron's statements that the Parabe protesters were armed as part of their ratification case. Therefore, testimony regarding media statements that the Parabe protesters were armed is irrelevant and confusing.	statements were consistent with information learned from international relations.
177:20-178:6		Plaintiffs WITHDRAW this designation.			
			178:7-17	In light of plaintiffs' withdrawal of the original designation, defendants' designation is irrelevant and beyond the scope. In addition, without plaintiffs' original designation, the counter-designation is	The designation is not misleading given plaintiffs' withdrawal. Rather, it shows that the deponent's statements were consistent with information learned from international relations.

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178:18-179:6		Plaintiffs WITHDRAW this designation.		confusing and misleading.	
Exhibit 2050 (I/O) redacted	Document is inadmissible and it's prejudice outweighs any limited relevance. FRE 401-403. The document should be excluded pursuant to the Court's order that an article "may be presented only to the extent necessary to explain defendants' responses for purposes of demonstrating agency, ratification, etc. The reports are not otherwise admissible," and that Opia/Ikenyan evidence "will be excluded on FRE 403 grounds if unfairly prejudicial or if redaction	The exhibit is relevant to plaintiffs' ratification arguments, as they constitute statements of the defendant. It is not prejudicial to admit plaintiff's own public key message points on Nigeria. All information relating to Opia and Ikenyan will be redacted. Not cumulative, because it illustrates the coordination of mis-information from Chevron management.	<div style="text-align: center;"> <p><i>all of the information is redacted and is for Defendant's use</i></p> </div>		

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	cannot be effected without the creation of undue prejudice." Dkt. # 2001; FRE 401-403.				
	Plaintiffs' proposed redactions increase the prejudice because the jury is misled to believe the statements only concern Parabe, when they also relate to Opia/Ikenyan. To the extent the document concerns Parabe, it is cumulative of other evidence, including the designated testimony. FRE 401-403.				
251:11-14					

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252:6-16 (through "together")					
			252:16-17		
252:18-22					
258:17-259:1					
			259:2-11		
263:19-265:3					