

DEFENDANTS' NOVEMBER 10 DESIGNATION OF TIMOTHY GENE BROWNE
(Counter-Designations in italicized text)
March 25, 2005

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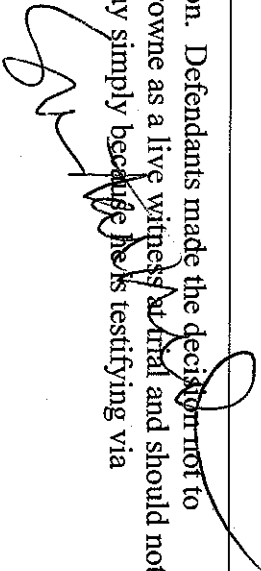
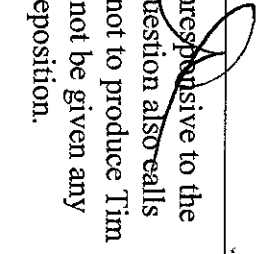
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22:2		
22:4-6		
22:9-19		
22:22-23:2		
23:5-9	<p>Lacks foundation. Defendants made the decision not to produce Tim Browne as a live witness at trial and should not be given any leeway simply because he is testifying via deposition.</p> 	<p>Browne knew it because he worked at the barge and was familiar with the safety rules. See 23:25-24:6. Further, plaintiffs did not specify a foundation objection (FRE 602) at the deposition.</p>
24:21-25:6	<p>25:2-6: "I knew it was unauthorized" is nonresponsive to the question asked and lacks foundation. The question also calls for hearsay. Defendants made the decision not to produce Tim Browne as a live witness at trial and should not be given any leeway simply because he is testifying via deposition.</p> 	<p>This goes to his state of mind and is responsive to the question. Further plaintiffs did not specify a foundation objection (FRE 602) at the deposition.</p>



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25:24-26:7		
26:18-22		
26:24-27:3		
28:3-20		
28:23-29:10		
29:12-13		
29:15-30:10	<p>29:17-20: Browne's response lacks foundation because he responds not for himself, but in terms of "us" and "we." Browne doesn't establish that he has personal knowledge of what anyone other than himself normally did, or whether others were allowed to move freely. The response is also based on hearsay ("They wouldn't allow us to go to the platform...."). Defendants made the decision not to produce Tim Browne as a live witness at trial and should not be given any leeway simply</p>	<p>These foundation objections were not made at the deposition and were waived. Even if they had not been, Mr. Browne had personal knowledge because he was there and unable to work.</p>

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	<p>because he is testifying via deposition.</p> <p>30:8-10: Again, Browne's response lacks foundation because he responds not for himself, but in terms of us ("They wouldn't allow us to work...."). The response is also based on hearsay.</p>	
30:15-20		
30:22-25	<p>Browne's testimony regarding a violent encounter he had with an Ilaje is more prejudicial than probative and should be excluded under Rule 403. There is no evidence that plaintiffs or their witnesses were involved in the violent encounter. Although Browne purports to identify the Ilaje with beads as one of the decedents (at 65-66), there is no evidence that the decedent he identified was Arpilika Irowaripam (as opposed to the other decedent, non-plaintiff Joli Ogungbege). There is no evidence that Davis or any other decision-maker at CNL had any knowledge of this incident. This incident doesn't help prove or disprove any of the claims or defenses in this case. The incident will prejudice plaintiffs because the jury may infer by association that plaintiffs themselves were violent.</p>	<p>Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful during their entire occupation. Testimony refuting that is relevant and goes to the heart of the case. Further, Davis was aware of the volatility of the Ilaje and the fact that they were causing anxiety for the expatriates. Evidence relating to the state of mind of the expatriates is directly relevant to the case. The plaintiffs were the leaders of the Ilaje and they and their witnesses claimed that they gave directions and enforced compliance with the orders of the elders. They claimed they were successful in doing so and that it was peaceful throughout. Evidence of violence on the barge contradicts their testimony.</p>

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31:2-5	Same objection as to 30:22-25. 	<i>See response to 30:22-25.</i>
31:8-32:15	Same objection as to 30:22-25. 32:9-15: Hearsay. 	<i>See response to 30:22-25.</i>
33:1-5	Browne's testimony about juju lacks foundation, must be based on hearsay, and is extremely prejudicial. The Court has already excluded Dr. Ajewole's testimony about juju on the grounds that he is not an expert in juju. Similarly, Browne is not an expert in juju and should not be permitted to testify about it. Browne's testimony at 97:14-20 does not qualify him to testify about juju; all Browne says is that he developed a notion of what a juju man was "from my experiences working [in Nigerian] pride years and talking to some of the . . . nationals and . . . the Nigerians." Browne later testified (at 300:2-14) that he couldn't "remember the exact conversation" he had with the Nigerian nationals regarding juju.	Tim Browne had familiarity with Juju and a foundation to speak about it (<i>see</i> 97:14-20), and it affected his state of mind when the person confronting him showed Browne his beads. <i>See</i> 33:8-10. That Juju causes some Nigerians to believe they have special protection factored into the apprehension of Browne and the other witnesses. The broader issue of Juju is relevant to the case because it explains the willingness of the Ilaje to attack the armed military. The ruling on Ajewole is not relevant to Browne. Ajewole was not on the barge, so his perception of Juju does not bear directly on the underlying events. But Tim Browne was there and the state of mind of the expatriates is as central to the case as plaintiffs' contentions that they were peaceful protestors.
	Defendants' response that "The broader issue of Juju is relevant to the case because it explains the willingness of the Ilaje to attack the armed military" shows that defendants are seeking to	

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	<p>introduce Browne's testimony about juju not only to prove Browne's state of mind, but for its truth – i.e., that the decedents actually believed they were impervious to bullets. This response serves to underscore the extreme prejudice of admitting Browne's testimony.</p>	
33:8-18	<p>33:8-10: The question calls for hearsay, and the response is not responsive to the question. <i>Browne's response lacks foundation because he simply testifies that the Ilaie showed him his beads. This does not establish that the Ilaie meant he could not be harmed. Further, for the reasons stated above, Browne should not be permitted to testify regarding his (Browne's) speculative beliefs about juju.</i></p> <p>Defendants' response that "The broader issue of Juju is relevant to the case because it explains the willingness of the Ilaie to attack the armed military" shows that defendants are seeking to introduce Browne's testimony about juju not only to prove Browne's state of mind, but for its truth – i.e., that the decedents actually believed they were impervious to bullets. This response serves to underscore the extreme prejudice of admitting Browne's testimony.</p>	See response to 33:1-5.

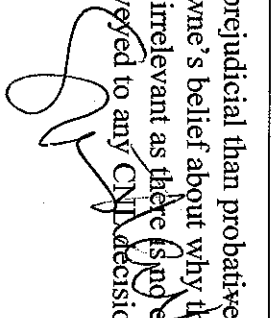
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33:21-22		
33:24		
34:1-13	<p>34:11-13: Browne testifies at 34:17-18 that he did not see the Haje kick in the door of the radio room, so he lacks foundation to testify "They kicked A in, tried to kick it in and tore it up." It's possible that the damage was done by one of the workers.</p> <p>There is no evidence that Browne's state of mind about the radio room door was ever passed along to any CNL decision-makers (or anyone else), and his state of mind is therefore irrelevant.</p>	<p>This is Tim Browne's understanding and is relevant to his state of mind. Defendants' proposed to add a completeness designation of 35:3-7 so the jury has complete information about what contributed to his state of mind. Plaintiffs argued at trial during Mr. Boyo's testimony (an Itsekiri worker on the barge) that the state of mind of the workers is relevant, and the Court agreed. See 10/29/08 Tr., 271:10-18, 272:14-16.</p>
34:17-35:2		
36:6-9	<p>The question is vastly overbroad, vague and compound.</p>	<p>The question is proper.</p>
36:12	<p>The question is vastly overbroad, vague and compound.</p>	<p>The question is proper.</p>

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36:15		
36:21-37:7		
37:10-17		
38:7-16		
38:20-21	<p>Rule 403 (more prejudicial than probative); lacks foundation; speculation; Browne's belief about why the <i>Ilaje</i>s were touching tools is irrelevant as there is no evidence that such beliefs were conveyed to any CNI decision-makers (or anyone else).</p> 	<p>Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful during their entire occupation and that the <i>Ilaje</i> did not touch the tools at all. Testimony refuting that is relevant and goes to the heart of the case. Further, Davis was aware of the volatility of the <i>Ilaje</i> and the fact that they were causing anxiety for the expatriates. Evidence relating to the state of mind of the expatriates is directly relevant to the case. The state of mind of Browne is relevant and his deductions are reasonable given that there is no evidence in the case that the <i>Ilaje</i> were engaging in any work on the barge that would cause them to use the tools.</p> <p>Plaintiffs argued at trial during Mr. Boyo's testimony (an</p>

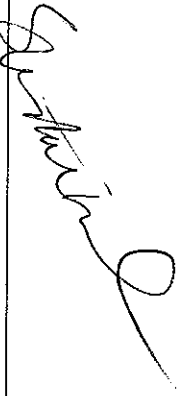
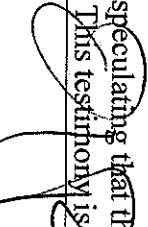
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38:24-25	<p>Rule 403 (more prejudicial than probative); lack of foundation; speculation; Browne's belief about why the Ilaje were touching tools is irrelevant as there is no evidence that such beliefs were conveyed to any CNL decision-makers (or anyone else).</p>	<p>Itsekiri worker on the barge) that the state of mind of the workers is relevant, and the Court agreed. See 10/29/08 Tr., 271:10-18, 272:14-16.</p>
39:3-6	<p>Rule 403 (more prejudicial than probative); Browne's state of</p>	<p>Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful during their entire occupation and that the Ilaje did not touch the tools at all. Testimony refuting that is relevant and goes to the heart of the case. Further, Davis was aware of the volatility of the Ilaje and the fact that they were causing anxiety for the expatriates. Evidence relating to the state of mind of the expatriates is directly relevant to the case. The state of mind of Browne is relevant and his deductions are reasonable given that there is no evidence in the case that the Ilaje were engaging in any work on the barge that would cause them to use the tools.</p> <p>Plaintiffs argued at trial during Mr. Boyo's testimony (an Itsekiri worker on the barge) that the state of mind of the workers is relevant, and the Court agreed. See 10/29/08 Tr., 271:10-18, 272:14-16.</p>

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39:8	 <p>mind is irrelevant to the claims and defenses in this lawsuit as there is no evidence that any of the decision-makers at CNL knew anything about Browne's state of mind.</p>	<p>barge was peaceful during their entire occupation and that the Ilaje did not touch the tools at all. Testimony refuting that is relevant and goes to the heart of the case. Further, Davis was aware of the volatility of the Ilaje and the fact that they were causing anxiety for the expatriates. Evidence relating to the state of mind of the expatriates is directly relevant to the case. The state of mind of Browne is relevant and his deductions are reasonable given that there is no evidence in the case that the Ilaje were engaging in any work on the barge that would cause them to use the tools.</p>
39:10-12		
39:15-20		
40:9-20		
40:22-41:11	<p>40:15-20: Browne is speculating that the Ilajes were "making some type of bomb." <i>This testimony is extremely prejudicial</i></p> 	<p>Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful during their entire occupation and that</p>



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41:14-17	<p>and has no probative value. There is no evidence that Browne's supposed beliefs about the bombs was ever conveyed to anyone at CNL.</p>	<p>the Ilaje did not threaten the workers in any way. Testimony refuting that is relevant and goes to the heart of the case. Further, Davis was aware of the volatility of the Ilaje and the fact that they were causing anxiety for the expatriates. Evidence relating to the state of mind of the expatriates based on the activity of the Ilajes is directly relevant to the case. The state of mind of Browne is relevant to the events on the barge and how they resulted in the decision to call in the military.</p> <p>Plaintiffs argued at trial during Mr. Boyo's testimony (an Itsekiri worker on the barge) that the state of mind of the workers is relevant, and the Court agreed. <i>See</i> 10/29/08 Tr., 271:10-18, 272:14-16.</p>
41:5-11	<p>Rule 403 (more prejudicial than probative); speculation.</p> 	<p>Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful during their entire occupation and that the Ilaje did not threaten the workers in any way. Testimony refuting that is relevant and goes to the heart of the case. Further, Davis was aware of the volatility of the Ilaje and the fact that they were causing anxiety for the expatriates. Evidence relating to the state of mind of the expatriates based on the activity of the Ilajes is directly relevant to the</p>

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41:20-21	<p>Rule 403 (more prejudicial than probative); speculation, irrelevant what Browne's beliefs were as they were never conveyed to anyone at CNL.</p> 	<p>Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful during their entire occupation and that the Ilaje did not threaten the workers in any way. Testimony refuting that is relevant and goes to the heart of the case. Further, Davis was aware of the volatility of the Ilaje and the fact that they were causing anxiety for the expatriates. Evidence relating to the state of mind of the expatriates based on the activity of the Ilajes is directly relevant to the case. The state of mind of Browne is relevant to the events on the barge and how they resulted in the decision to call in the military.</p>
41:23-25	<p>Rule 403 (more prejudicial than probative); speculation,</p> 	<p>Plaintiffs argued at trial during Mr. Boyo's testimony (an Itsekiri worker on the barge) that the state of mind of the workers is relevant, and the Court agreed. See 10/29/08 Tr., 271:10-18, 272:14-16.</p> <p>Plaintiffs repeatedly elicited testimony that everything on the</p>

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	<p>irrelevant what Browne's beliefs were as they were never conveyed to anyone at CNL.</p>	<p>barge was peaceful during their entire occupation and that the Ilaje did not threaten the workers in any way. Testimony refuting that is relevant and goes to the heart of the case. Further, Davis was aware of the volatility of the Ilaje and the fact that they were causing anxiety for the expatriates. Evidence relating to the state of mind of the expatriates based on the activity of the Ilajes is directly relevant to the case. The state of mind of Browne is relevant to the events on the barge and how they resulted in the decision to call in the military.</p> <p>Plaintiffs argued at trial during Mr. Boyo's testimony (an Itsekiri worker on the barge) that the state of mind of the workers is relevant, and the Court agreed. See 10/29/08 Tr., 271:10-18, 272:14-16.</p>
<p><i>If the Court permits Browne to testify regarding his speculation that the Ilajes were planning to throw bombs, plaintiffs</i></p>	<p>Defendants' response: No objection to the testimony. Exh. 742 should be admitted in unredacted form because it is relevant to the state of mind of CNL and defendants regarding ratification issues.</p> <p>Plaintiffs' argument that Browne's statement is not relevant to ratification because plaintiffs only relied on three specific</p>	<p>Plaintiffs' response: Exh. 742 is Tim Browne's letter to CNL dated March 1, 1999 regarding the Parabe incident. It is not relevant to ratification because the only misleading or untruthful statements that plaintiffs relied on were: (1) the military ordered CNL to take the military to the platform; (2) CNL did not control the helicopters used in the Parabe attack; and (3) CNL did not pay the military. Browne's</p>

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<p><i>designate:</i> 260:19-24 <i>Exhibit 742 – ALL MATERIALS IN BROWNE’S LETTER SHOULD BE REDACTED EXCEPT THE PORTIONS USED FOR IMPEACHMENT. The remainder is inadmissible hearsay.</i></p>	<p>public statements misses the point. The jury instruction on ratification states that “failure to disavow the Nigerian security forces acts may constitute ratification.” If defendants were informed after the fact that the invaders were armed and had placed Molotov cocktails around the barge, as Browne’s statement relays, then the jury may find that defendants had no reason to disavow conduct of the Nigerian military that lead to the rescue of a hostile takeover.</p> <p>The ratification jury instruction also states that failure to investigate the Nigerian military’s conduct may constitute ratification. The jury could find that questioning the workers about their experience and receiving statements is an investigation.</p> <p>Even if plaintiffs’ ratification theory were limited to defendants’ public statements, Browne’s written statement would still be relevant to notice. Defendants should be able to establish that defendants made many true statements, such as that the invaders were armed with clubs and knives, to defend plaintiffs’ assertion that defendants’ intent was to make misstatements and “cover-up” what had happened at Parabe. Finally, public statements that the invaders were armed is</p>	<p>letter is not relevant to any of these statements.</p> <p>Defendants’ claim of relevance – that it goes to plaintiffs’ ratification claim – is greatly outweighed by the substantial prejudice that admission of the hearsay statement would cause (Rule 403). Browne admitted in his deposition that several portions of the letter were not based on his personal observation, but on information he was told. He further testified that he speculated in the letter that the Ilaje were gathering bolts and pipes for weapons, and he speculated that the Ilaje were using bottles to make bombs. See Browne Dep., 260-264.</p> <p>Defendants, not plaintiffs, put evidence in through Gorell that Chevron’s media employee made a public statement the Ilaje were armed. This “completeness” designation was not “required” by anyone – defendants put it in voluntarily.</p>

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	<p>already in the trial transcript, as a required completeness designation to plaintiffs' designation of Gorell. 11/12/08 Tr., 1618:6-17.</p>	
261:1	<p>Plaintiffs' arguments go to weight, not admissibility.</p>	
261:15-20		
263:8-264:18		
<p>42:3-17 Exhibit 730</p>	<p>42:10-17: Lacks foundation. Before asking these questions, Ms. Mitchell did not lay any foundation that Browne personally observed the Ilaie blocking the helideck with oil drums. Defendants may not rely on plaintiffs' counter-designation to "cure" the foundation problem. Foundation must be laid before a witness may testify regarding a topic. Defendants made the decision not to produce Tim Browne as a live witness at trial and should not be given any leeway simply because he is testifying via deposition.</p>	<p>No foundation objection was made at the deposition, so it was waived. When such an objection was made as to the helideck of the platform. Is was readily cured. See 43:5-43:22. Indeed, the counter designation addresses the foundation.</p>

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239:25-241:3		
42:20-23 Exhibit 734		
43:5-9		
43:12		
43:14-24		
44:1-2		
44:15-19	<p>Hearsay, lacks foundation. Several contractors have testified that the Ilajes did not speak English to them. Ms. Mitchell did not lay a foundation that Browne understood what the Ilajes were saying, or that the Ilajes were speaking English, so his</p>	<p>Many of the Ilaje spoke English and pidgin English, so plaintiffs' contention that Browne didn't hear what he testifies to hearing is not well taken. Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful</p>

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	<p>testimony must be based on what someone else told him (hearsay). Even if the Ilaje were speaking Pidgin English (which was not established in Browne's deposition), Ms. Mitchell never established that Browne understood Pidgin – despite defendants' implication, Pidgin is not understandable to Americans who speak regular English.</p> <p>Rule 403 (more prejudicial than probative). There is no indication that plaintiffs or their witnesses made any threats, but the jury is likely to infer that they did so by association. Browne's state of mind (the only relevance of the threats) does not help prove or disprove any of the claims or defenses in this action.</p> <p>Defendants made the decision not to produce Tim Browne as a live witness at trial and should not be given any leeway simply because he is testifying via deposition. Defendants failed to establish that Browne understood what the Ilaje were saying, and cannot do it now because they decided not to bring him live to trial.</p>	<p>during their entire occupation and that the Ilaje did not threaten the workers in any way. Testimony refuting that is relevant and goes to the heart of the case. It is also relevant to the deponent's state of mind.</p> <p>Plaintiffs were free to cross examine Browne about the extent he understood pidgin English at his deposition.</p>
44:22	<p>Hearsay, lacks foundation. Several contractors have testified that the Ilajes did not speak English to them. Ms. Mitchell did</p>	<p>Many of the Ilaje spoke English and pidgin English, so plaintiffs' contention that Browne didn't hear what he</p>

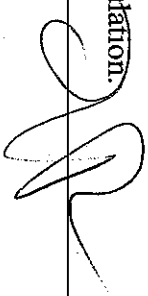
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44:25-45:21	<p>Hearsay, lacks foundation. Several contractors have testified that the Ilajes did not speak English to them. Ms. Mitchell did not lay a foundation that Browne understood what the Ilajes were saying, or that the Ilajes were speaking English, so his testimony must be based on what someone else told him (hearsay). Even if the Ilaje were speaking Pidgin English (which was not established in Browne's deposition), Ms. Mitchell never established that Browne understood Pidgin -- despite defendants' implication, <i>Ridgin is not understandable to Americans who speak regular English.</i></p> <p>Rule 403 (more prejudicial than probative). There is no indication that plaintiffs or their witnesses made any threats, but the jury is likely to infer that they did so by association. Browne's state of mind (the only relevance of the threats) does not help prove or disprove any of the claims or defenses in this action.</p> <p>Defendants made the decision not to produce Tim Browne as a live witness at trial and should not be given any leeway simply because he is testifying via deposition. Defendants failed to establish that Browne understood what the Ilaje were saying, and cannot do it now because they decided not to bring him live</p>	<p>Many of the Ilaje spoke English and pidgin English, so plaintiffs' contention that Browne didn't hear what he testifies to hearing is not well taken. Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful during their entire occupation and that the Ilaje did not threaten the workers in any way. Testimony refuting that is relevant and goes to the heart of the case. It is also relevant to the deponent's state of mind.</p>

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45:22-46:3	<p>to trial.</p> <p>Hearsay, lacks foundation. Several contractors have testified that the Ilajes did not speak English to them. Ms. Mitchell did not lay a foundation that Browne understood what the Ilajes were saying, or that the Ilajes were speaking English, so his testimony must be based on what someone else told him (hearsay). Even if the Ilaje were speaking Pidgin English (which was not established in Browne's deposition), Ms. Mitchell never established that Browne understood Pidgin – despite defendants' implication, Pidgin is not understandable to Americans who speak regular English.</p> <p>Rule 403 (more prejudicial than probative). There is no indication that plaintiffs or their witnesses made any threats, but the jury is likely to infer that they did so by association. Browne's state of mind (the only relevance of the threats) does not help prove or disprove any of the claims or defenses in this action.</p>	<p>Many of the Ilaje spoke English and pidgin English, so plaintiffs' contention that Browne didn't hear what he testifies to hearing is not well taken. Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful during their entire occupation and that the Ilaje did not threaten the workers in any way. Testimony refuting that is relevant and goes to the heart of the case. Browne used the "I guess" language idiomatically, not to suggest he didn't remember or was actually guessing.</p>
46:25-46:3: Speculation.		

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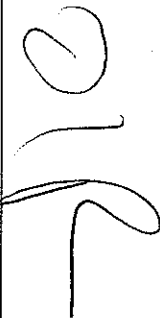
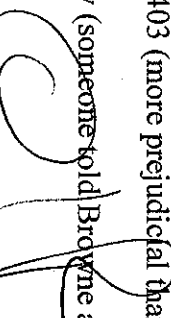
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46:25-47:10		
<i>182:5-13</i>		
<i>182:21-183:4</i>		
47:11-22		
50:3-19		
51:6-15		
52:14-18		
52:21-23		
53:1-3		
53:9-19		

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53:23-54:7		
54:14-55:3		
55:23-56:4	Lacks foundation, speculation. Ms. Mitchell failed to lay a foundation that Browne could identify diesel. Browne's response at 56:3-4 also lacks foundation, or is based on hearsay, because he does not respond for himself, but for multiple people ("[W]e could smell it").	There were no objections at the deposition, further the witness testifies about identifying it by smell and the fact that it made a film.
56:9-14	Same objections as directly above.	See response to 55:23-56:4.
56:23-57:14	Hearsay. <i>OTR</i> 57:7-14: Speculation, lacks foundation.	Goes to state of mind, not truth of matter asserted. His personal observations of people are not speculative and do not lack foundation.
57:23-58:7	Overbroad, compound, lacks foundation. <i>JK</i>	There was no objection to the form of the question. The witnesses response is a recounting of what he observed, as reflected at 58:10-11.

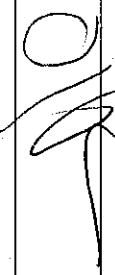
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58:10-11	Vague as to "that," particularly <u>in light of</u> overbroad and compound nature of <u>questions and answers</u> directly before.	There was no objection at the deposition, so it has been waived.
58:12-19	Irrelevant whether Browne "felt free" to use the communications facilities. 58:18-19: Ms. Mitchell <u>failed to lay a foundation</u> as to Browne's belief that the <u>Ilaie were listening</u> to all communications and that he didn't have access to the communications facilities; speculation.	No objection was made at the deposition. Plaintiffs repeatedly elicited testimony that everything on the barge was peaceful during their entire occupation and that the Ilaie did not threaten the workers in any way. Testimony refuting that is relevant and goes to the heart of the case. The state of mind of the barge workers is directly relevant.
59:1-12	Irrelevant, Rule 403 (more prejudicial than probative). 	Plaintiffs repeatedly elicited testimony that the Ilaie didn't interfere with the barge workers in any way and that they had complete freedom. This testimony is probative of how the barge workers were restricted and is relevant, not unduly prejudicial.
60:1-61:9	Irrelevant, Rule 403 (more prejudicial than probative). 60:1-12: Hearsay (someone told Browne about fax). 	See response to 59:1-12. The testimony about the receipt of the fax explains what Browne thought and why he acted, it is not offered for the truth. 60:13-61:3 is not hearsay, it is a recounting of events for

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Page/Line Cite	Objection (include specific page and line numbers of material objected to and objection(s))	Response
	60:13-61:9: Phone conversation with wife is hearsay. 60:18-25: Ms. Mitchell failed to lay a foundation as to Browne's belief that the Ilaje were listening in; speculation.	which he has personal knowledge. 61:4-9 is offered for the effect it had on Browne, not for the truth of the matter.
61:15-62:24	Irrelevant, Rule 403 (more prejudicial than probative). Phone conversations with wife and "Steven" are hearsay.	State of mind, notice.
63:2-18	Irrelevant, Rule 403 (more prejudicial than probative). 63:12-18: Ms. Mitchell failed to lay a foundation as to Browne's belief that the Ilaje were listening in; speculation. Phone conversation with "Steven" is hearsay.	State of mind, notice. 63:12-18: There was no objection at the deposition.
65:2-12	65:2-6: Irrelevant. <i>OR</i>	This is relevant to later events, <i>see, e.g.,</i> 285:9-15.
65:16-66:5	65:23-66:5: Irrelevant, Rule 403 (more prejudicial than probative). Browne does not testify (and lacks foundation to testify) that the decedent with the beads around his neck was Arolika Irowarinnun -- it could have been non-plaintiff Joli	This is directly relevant to the conduct of the Ilaje on the barge. Browne's testimony is not based on speculation and hearsay.

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66:8-14	<p>Ogungbege. The testimony is unduly prejudicial because the jury might assume that the decedent who had an altercation with Browne earlier was the plaintiff.</p> <p>Further, Browne's identification of the decedent as the Ilaje who tried to take his channel locks lacks foundation, and is based on speculation and hearsay. Browne later testified that he observed the decedent on the deck from the top floor of the barge and wasn't certain whether it was the same person who tried to take his channel locks (at 223:19). He also testified that his belief that it was the same person was based on hearsay statements from other workers, although he couldn't identify who they were. (223:21-224:4).</p> <p>The testimony is also impermissible character evidence because defendants are introducing it to raise the inference that because this Ilaje was violent with Browne earlier, it is more likely that he violently attacked the GSF before being shot.</p>	<p>Browne said at 223:21 "I could see him pretty close." That he isn't 100% certain is not the standard for admissible evidence. Further, that other barge workers agreed with his personal observation does not make it hearsay and goes to his state of mind. At most these issues go to weight, not admissibility.</p>
220:7-14	<p>Same objections as above.</p> 	<p>See response to 65:16-66:5.</p>

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69:15-70:8		
72:16-18	<p>Irrelevant what the barge looked like upon Browne's return, Rule 403 (more prejudicial than probative). Browne has no personal knowledge that the Ilaje caused any of the conditions that he saw upon his return to the barge, such as the diesel film or broken glass.</p> <p>Mackey's testimony about the diesel is also objectionable because it is speculation and unduly prejudicial.</p>	<p>Plaintiffs' argument goes to weight not relevance. Mackey testifies he saw Ilaje pour diesel on the deck, Browne testified to seeing Ilaje breaking bottles.</p>
72:21-73:18	<p>72:21-73:12: Irrelevant what the barge looked like upon Browne's return, Rule 403 (more prejudicial than probative). Browne has no personal knowledge that the Ilaje caused any of the conditions that he saw upon his return to the barge, such as the diesel film or broken glass.</p>	<p>See response to 72:16-18.</p>
73:20-23	<p>Browne's testimony about juju lacks foundation, must be based on hearsay, and is extremely prejudicial. The Court has already excluded Dr. Ajewole's testimony about juju on the grounds that he is not an expert in juju. Similarly, Browne is not an expert in juju and should not be permitted to testify about it.</p>	<p>Tim Browne had familiarity with Juju and a foundation to speak about it (see 97:14-20), and it affected his state of mind when the person confronting him showed Browne his beads. See 33:8-10. That Juju causes some Nigerians to believe they have special protection factored into the</p>

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74:1-4	<p>Browne's testimony at 97:14-20 does not qualify him to testify about juju; all Browne says is that he developed a notion of what a juju man was "from my experiences working in Nigeria] prior years and talking to some of the . . . nationals and . . . the Nigerians." Browne later testified (at 300:2-14) that he couldn't "remember the exact conversation" he had with the Nigerian nationals regarding juju.</p> <p>Defendants' response that "The broader issue of Juju is relevant to the case because it explains the willingness of the Ilaje to attack the armed military" shows that defendants are seeking to introduce Browne's testimony about juju not only to prove Browne's state of mind, but for its truth – i.e., that the decedents actually believed they were impervious to bullets. This response serves to underscore the extreme prejudice of admitting Browne's testimony.</p>	<p>apprehension of Browne and the other witnesses. The broader issue of Juju is relevant to the case because it explains the willingness of the Ilaje to attack the armed military. The ruling on Ajewole is not relevant to Browne. Ajewole was not on the barge, so his perception of Juju does not bear directly on the underlying events. But Tim Browne was there and the state of mind of the expatriates is as central to the case as plaintiffs' contentions that they were peaceful protestors.</p>
	<p>Browne's testimony about juju lacks foundation, must be based on hearsay, and is extremely prejudicial. The Court has already excluded Dr. Ajewole's testimony about juju on the grounds that he is not an expert in juju. Similarly, Browne is not an expert in juju and should not be permitted to testify about it. Browne's testimony at 97:14-20 does not qualify him to testify</p>	<p>See response to 73:20-23.</p>

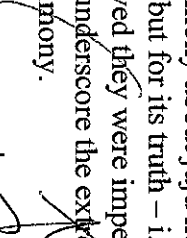
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Page/Line Cite	Objection (include specific page and line numbers of material objected to and objection(s))	Response
74:7-9	<p>about juju; all Browne says is that he developed a notion of what a juju man was "from my experiences working [in Nigeria] prior years and talking to some of the . . . nationals and . . . the Nigerians." Browne later testified (at 300:2-14) that he couldn't "remember the exact conversation" he had with the Nigerian nationals regarding juju.</p> <p>Defendants' response that "The broader issue of Juju is relevant to the case because it explains the willingness of the Ilaje to attack the armed military" shows that defendants are seeking to introduce Browne's testimony about juju not only to prove Browne's state of mind, but for its truth – i.e., that the decedents actually believed they were impervious to bullets. This response serves to underscore the extreme prejudice of admitting Browne's testimony.</p>	<p>See response to 73:20-23.</p>
	<p>Browne's belief that he observed a juju man lack a foundation, is irrelevant, and is more prejudicial than probative. None of the decision-makers at CNL knew Browne's state of mind regarding the juju man, and such belief doesn't help prove or disprove any of the claims or defenses in this action.</p> <p>Defendants' response that "The broader issue of Juju is relevant</p>	

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74:12	<p>to the case because it explains the willingness of the Haje to attack the armed military" shows that defendants are seeking to introduce Browne's testimony about juju not only to prove Browne's state of mind, but for its truth - i.e., that the decedents actually believed they were imperious to bullets. This response serves to underscore the extreme prejudice of admitting Browne's testimony.</p> 	<p><i>See response to 73:20-23.</i></p>
74:14-24	<p>Same objection as to 74:7-9.</p>	<p><i>See response to 73:20-23.</i></p>
<p><i>If Browne's testimony regarding the juju man is permitted, plaintiffs designate:</i> 182:1-4</p>		

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75:21-76:9	<p>Whether tools were missing when Browne returned is irrelevant. There is no evidence that the Ilajes took the tools, and Browne's testimony that tools were missing is more prejudicial than probative. Ms. Mitchell also failed to lay a foundation that Browne had done an inventory of the tools before May 29, 1998.</p> <p>Tools that were missing after the incident is not relevant to CNL's state of mind because the decision to call in the military had already been made.</p> <p>Browne's testimony regarding missing tools is not relevant to ratification because the only misleading or untruthful media statements that plaintiffs relied on were: (1) the military ordered CNL to take the military to the platform; (2) CNL did not control the helicopters used in the Parabe attack; and (3) CNL did not pay the military. Plaintiffs did not introduce any media statements for purposes of their ratification claim that the Ilaje were armed, so Browne's testimony that tools were missing cannot possibly be relevant to plaintiffs' ratification claim.</p> <p>Defendants, not plaintiffs, put evidence in through Gorell that</p>	<p>No objections were made at the deposition. Further, Browne testified earlier he saw Ilaje carrying tools. Also goes to his and CNL's state of mind regarding conduct of Ilaje and is relevant to ratification.</p> <p>Plaintiffs' argument that Browne's statement is not relevant to ratification because plaintiffs only relied on three specific public statements misses the point. The jury instruction on ratification states that "failure to disavow the Nigerian security forces acts may constitute ratification." If defendants were informed after the fact that the invaders were armed with tools from the barge, as Browne's statement relays, then the jury may find that defendants had no reason to disavow conduct of the Nigerian military that lead to the rescue of a hostile takeover.</p> <p>The ratification jury instruction also states that failure to investigate the Nigerian military's conduct may constitute ratification. The jury could find that the workers examination of the barge and reporting of the state of the barge after the rescue operation was an investigation.</p> <p>Even if plaintiffs' ratification theory were limited to</p>

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89:14-22 Exhibit 742	Chevron's media employee made a public statement the Ilaje were armed. This "completeness" designation was not "required" by anyone – defendants put it in voluntarily.	defendants' public statements, Browne's statement would still be relevant to notice. Defendants should be able to establish that defendants made many true statements, such as that the invaders were armed with clubs, tools and knives, to defend plaintiffs' assertion that defendants' intent was to make misstatements and "cover-up" what had happened at Parabe. Finally, public statements that the invaders were armed is already in the trial transcript, as a required completeness designation to plaintiffs' designation of Gorell. 11/12/08 Tr., 1618:6-17.
	Browne's letter to CNL in March 1999 (Exh. 742) is hearsay, and there is no relevant non-hearsay purpose for the letter. The letter is not relevant to the effect on the listener or to anyone's state of mind because it is dated 10 months after the Parabe incident. Browne's March 1999 letter is not relevant to ratification because the only misleading or untruthful media statements that plaintiffs relied on were: (1) the military ordered CNL to take the military to the platform; (2) CNL did not control the helicopters used in the Parabe attack; and (3) CNL did not pay the military. Plaintiffs did not introduce any media statements for purposes of their ratification claim that the Ilaje were	Relevant to Browne's and CNL's state of mind post-Parabe as relates to ratification claims. Plaintiffs' argument that Browne's statement is not relevant to ratification because plaintiffs only relied on three specific public statements misses the point. The jury instruction on ratification states that "failure to disavow the Nigerian security forces acts may constitute ratification." If defendants were informed after the fact that the invaders were armed and had placed Molotov cocktails around the barge, as Browne's statement relays, then the jury may find that defendants had no reason to disavow conduct of the Nigerian military that lead to the rescue of a hostile takeover.

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90:3	<p>armed, so Browne's letter containing information about the Ilaje being armed cannot possibly be relevant to plaintiffs' ratification claim.</p> <p>Defendants' claim of relevance – that it goes to plaintiffs' ratification claim – is greatly outweighed by the substantial prejudice that admission of the hearsay statement <i>statement</i> would cause (Rule 403). Browne admitted in his deposition that several portions of the letter were not based on his personal observation, but on information he was told. He further testified that he speculated in the letter that the Ilaje were gathering bolts and pipes for weapons, and he speculated that the Ilaje were using bottles to make bombs. See Browne Dep., 260-264.</p> <p>Defendants, not plaintiffs, put evidence in through Gorell that Chevron's media employee made a public statement the Ilaje were armed. This "completeness" designation was not "required" by anyone – defendants put it in voluntarily.</p>	<p>The ratification jury instruction also states that failure to investigate the Nigerian military's conduct may constitute ratification. The jury could find that questioning the workers about their experience and receiving statements is an investigation.</p> <p>Even if plaintiffs' ratification theory were limited to defendants' public statements, Browne's written statement would still be relevant to notice. Defendants should be able to establish that defendants made many true statements, such as that the invaders were armed with clubs and knives, to defend plaintiffs' assertion that defendants' intent was to make misstatements and "cover-up" what had happened at Parabe. Finally, public statements that the invaders were armed is already in the trial transcript, as a required completeness designation to plaintiffs' designation of Gorell. 11/12/08 Tr., 1618:6-17.</p> <p>Plaintiffs' arguments regarding Exhibit 742 go to weight, not admissibility.</p> <p>See response to 89:14-22.</p>

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Exhibit 742	<p>The conditions on the barge upon Browne's return are irrelevant; Rule 403 (more prejudicial than probative). Browne never testified that he saw any Ilaje with razors during the incident, and the CNL decision-makers never received information that the Ilajes had razors.</p> <p>91:1-2: Browne's "belief" about where the razors came from lacks foundation and is speculative. His belief is also irrelevant and more prejudicial than probative.</p> <p>The only witnesses who said the decks were clear are defendants' witnesses. Improper impeachment of their own witnesses.</p> <p>Browne's testimony regarding razors is not relevant to ratification because the only misleading or untruthful media statements that plaintiffs relied on were: (1) the military ordered CNL to take the military to the platform; (2) CNL did not control the helicopters used in the Parabe attack; and (3) CNL did not pay the military. Plaintiffs did not introduce any media statements for purposes of their ratification claim that the</p>	<p>Plaintiffs argument goes to weight not relevance. Is also relevant to ratification because it goes to state of mind about whether Ilaje had weapons on the barge. It is also relevant to impeach witnesses who said decks were clear of debris.</p> <p>Plaintiffs' argument that Browne's statement is not relevant to ratification because plaintiffs only relied on three specific public statements misses the point. The jury instruction on ratification states that "failure to disavow the Nigerian security forces acts may constitute ratification." If defendants were informed after the fact that the invaders were armed and had razors, as Browne's testimony relays, then the jury may find that defendants had no reason to disavow conduct of the Nigerian military that lead to the rescue of a hostile takeover.</p> <p>The ratification jury instruction also states that failure to investigate the Nigerian military's conduct may constitute ratification. The jury could find that the workers examination of the barge and reporting of the state of the barge after the rescue operation was an investigation.</p>

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	<p>Ilaje were armed, so Browne's testimony that he saw razors cannot possibly be relevant to plaintiffs' ratification claim. Defendants, not plaintiffs, put evidence in through Gorell that Chevron's media employee made a public statement the Ilaje were armed. This "completeness" designation was not "required" by anyone – defendants put it in voluntarily.</p> <p align="center"><i>OK</i></p>	<p>Even if plaintiffs' ratification theory were limited to defendants' public statements, Browne's written statement would still be relevant to notice. Defendants should be able to establish that defendants made many true statements, such as that the invaders were armed with clubs and knives, to defend plaintiffs' assertion that defendants' intent was to make misstatements and "cover-up" what had happened at Parabe. Finally, public statements that the invaders were armed is already in the trial transcript, as a required completeness designation to plaintiffs' designation of Gorell. 11/12/08 Tr., 1618:6-17.</p> <p>Plaintiffs' arguments regarding Exhibit 742 go to weight, not admissibility.</p>
91:5	Same objections as to 91:1-2.	<i>See response to 90:5-91:2.</i>
91:7	Same objections as to 91:1-2.	<i>See response to 90:5-91:2.</i>
91:9-11	Same objections as to 91:1-2.	<i>See response to 90:5-91:2.</i>

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<p><i>If any of Browne's testimony regarding his discovery of razor blades is permitted, plaintiffs designate:</i></p> <p><i>265:19-21</i></p> <p><i>266:8-11</i></p>	<p>Defendants' counter designate: 265:22-25, 266:4-7.</p>	
<p>93:24-94:12</p>	<p>Exh. 542 is a letter by Mike Browne and two others dated Feb. 1999 describing the Parabe incident. It is hearsay and there is no relevant non-hearsay purpose for the letter. The letter is not relevant to the effect on the listener or to anyone's state of mind because it is dated 9 months after the Parabe incident.</p> <p>The testimony at 93:24-94:12 is objectionable for the same reasons.</p> <p>Improper to question Browne about Exh. 542 without laying a</p>	<p>The testimony asks the witness to testify whether a statement comports with his percipient knowledge.</p> <p>The document will be introduced through Mike Browne.</p>

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	foundation. Tim Browne was not one of its authors and wasn't asked whether he'd seen it before.	
94:15	Same objections as to 93:24- 94:12 .	See response to 93:24-94:12.
94:17-95:6	<p>Exh. 539 is a letter by Wayne Hawkins apparently dated March 1999 describing the Parabe incident. It is hearsay, and there is no relevant non-hearsay purpose for the letter. The letter is not relevant to the effect on the listener or to anyone's state of mind because it is dated 10 months after the Parabe incident.</p> <p>The testimony at 94:17-95:6 is objectionable for the same reasons.</p> <p>Improper to question Browne about Exh. 539 without laying a foundation. Tim Browne was not one of its authors and wasn't asked whether he'd seen it before.</p>	<p>See response to 93:24-94:12.</p> <p>This exhibit will be introduced through Wayne Hawkins.</p>
95:15-96:6 Exhibit 737	<p>Exh. 737 is a memo by Mike Browne dated Feb. 1999 describing the Parabe incident. It is hearsay, and there is no relevant non-hearsay purpose for the letter. The letter is not relevant to the effect on the listener or to anyone's state of mind</p>	<p>See response to 93:24-94:12.</p> <p>This exhibit will be introduced through Mike Browne.</p>

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	<p>because it postdates the Parabe incident.</p> <p>The testimony at 95:15-96:6 is objectionable for the same reasons.</p> <p>Improper to question Browne about Ex 737 without laying a foundation. Tim Browne was not one of its authors and wasn't asked whether he'd seen it before.</p>	
96:14-97:4 Exhibit 737	<p>Same objections as to 95:15-96:6.</p>	<p>See response to 95:15-96:6.</p>
97:14-20	<p>Browne's testimony about juju lacks foundation, must be based on hearsay, and is extremely prejudicial. The Court has already excluded Dr. Ajewole's testimony about juju on the grounds that he is not an expert in juju. Similarly, Browne is not an expert in juju and should not be permitted to testify about it. Browne's testimony at 97:14-20 does not qualify him to testify about juju; all Browne says is that he developed a notion of what a juju man was "from my experiences working [in Nigerian] prior years and talking to some of the . . . nationals and . . . the Nigerians." Browne later testified (at 300:2-14)</p>	<p>This testimony established Browne's foundation for his understanding and state of mind re: Juju.</p> <p>The ruling on Ajewole is not relevant to Browne. Ajewole was not on the barge, so his perception of juju does not bear directly on the underlying events. But Tim Browne was there and the state of mind of the expatriates is as central to the case as plaintiffs' contentions that they were peaceful protestors.</p>

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115:20-116:5	that he couldn't "remember the exact conversation" he had with the Nigerian nationals regarding juju.	
117:5-16	Completeness 117:15-19. <i>OK</i>	
118:14-20		
119:20-120:6		
139:3-16		
140:25-141:3		
141:18-142:8		
143:13-16	Defendants' response: Completeness 142:14-143:8. <i>OK</i> If the Court finds that 142:14-143:8 is not necessary for	Plaintiffs' Response: Defendants' designation of a hearsay conversation between the captain and an unspecified individual onshore is not necessary to "complete" plaintiffs'

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145:10-16	<p>completeness, then defendants affirmatively designate it. It is necessary for completeness because it provides context as to why the captain was in the radio room and that he was communicating that the takeover was not safe. It is not being offered for the truth but for notice and for state of mind of the captain. In their case-in-chief, plaintiffs repeatedly claimed that Davis should have spoken to the barge captain. Whether the barge captain felt safe and his state of mind is therefore relevant. It also refutes plaintiffs' claims that they were peaceful to the workers.</p>	<p>designation regarding how many times Browne observed the captain using the equipment in the radio room. 142:14-143:8 is hearsay and there is no relevant non-hearsay purpose for the captain's conversation.</p>
146:3-5		
149:17-150:10	<p>The witness is speculating that Mike Browne was going to try to use the communications equipment when the Ilaje supposedly stopped him from doing so ("I think he was trying to?").</p>	<p>Plaintiffs asked these questions and didn't move to strike. Relevant to state of mind, responsive.</p>
	<p>The response at 150:2-6 is not responsive to the question at</p>	

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	149:24-25.	
<i>178:9-11</i>	Completeness 178:12-18. <i>OK</i>	
<i>178:22-179:6</i>		
<i>188:7-14</i>		
<i>188:25-189:10</i>		
<i>190:3-8</i>	Completeness 190:9-17. <i>OK</i>	
<i>190:18-19</i>		
<i>190:21-22</i>		
<i>192:7-15</i>		
<i>192:25-193:3</i>		

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<i>198:15-17</i>		
<i>201:19-25</i>		
<i>211:15-212:13</i>		
<i>213:13-15</i>		
<i>213:20-22</i>		
<i>214:9-12</i>		
<i>215:14-216:20</i>		
<i>222:25-223:17</i>	<p><i>223:12-17: Browne's identification of the decedent as the Ilaje who tried to take his channel locks lacks foundation, and is based on speculation and hearsay. Browne testified that he observed the decedent on the deck from the top floor of the barge and wasn't certain whether it was the same person who tried to take his channel locks (at 223:19). He further testified</i></p>	<p>This is directly relevant to the conduct of the Ilaje on the barge. Browne's testimony is not based on speculation and hearsay. Browne said at 223:21 "I could see him pretty close." That he isn't 100% certain is not the standard for admissible</p>

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	that his belief that it was the same person was based on hearsay statements from other workers, although he couldn't identify who they were. (223:21-224:4).	evidence. Further, that other barge workers agreed with his personal observation does not make it hearsay and goes to his state of mind. At most these issues go to weight, not admissibility.
223:19-23	Same objections as to 223:12-17. 223:21-23: Hearsay. There is no relevant non-hearsay purpose for Browne's testimony that other men told him that the decedent was the Ilaje who tried to take his channel locks. Browne's state of mind is irrelevant at this point in the incident and the statements' effect on Browne have no bearing on the claims or defenses in this case.	This is directly relevant to the conduct of the Ilaje on the barge. Browne's testimony is not based on speculation and hearsay. Browne said at 223:21 "I could see him pretty close." That he isn't 100% certain is not the standard for admissible evidence. Further, that other barge workers agreed with his personal observation does not make it hearsay and goes to his state of mind. At most these issues go to weight, not admissibility.
223:24-224:4	Hearsay. There is no relevant non-hearsay purpose for Browne's testimony that other men told him that the decedent was the Ilaje who tried to take his channel locks. Browne's state of mind is irrelevant at this point in the incident and the statements' effect on Browne have no bearing on the claims or defenses in this case.	Relevant to state of mind, ratification. Plaintiffs' ratification objection does not make sense. That deponent shared his story with a barge worker "all night," goes to his state of mind and to notice.

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	<p>Browne's testimony is not relevant to ratification because the only misleading or untruthful media statements that plaintiffs relied on were: (1) the military ordered CNL to take the military to the platform; (2) CNL did not order of the helicopters used in the Parabe attack; and (3) CNL did not pay the military. Plaintiffs did not introduce any media statements for purposes of their ratification claim that the Ilaje were armed, so Browne's testimony here cannot possibly be relevant to plaintiffs' ratification claim.</p>	
230:14-22		
231:13-15		
232:3-11		
<p><i>If any testimony regarding Browne's conversations with Kay Browne or "Steven" is</i></p>		

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<i>admitted, plaintiffs designate 232:12-233:9</i>		
247:9-10 <i>Exhibit 536</i>	Completeness designation: 247:11-18. <i>OK</i> Testimony is not objected to, but Browne does not provide basis for admitting exhibit.	Exh. 536 is the log of Wayne Hawkins. Hawkins authenticated the log in his deposition and will be able to do so during his live examination at trial.
247:19-24		
248: 10-17	Incomplete FRE 106. <i>OK</i> The designation of 248:21-22 does not make.	
266:12-21 (include <i>all counsel colloquy</i>) <i>Exh. 741 - ALL MATERIAL IN BROWNE'S</i>	<i>OK</i> Defendants' response: Document is relevant for notice and state of mind of CNL and bears on plaintiffs' ratification claims. Document should not be redacted. Plaintiffs' argument that Browne's statement is not relevant to ratification because plaintiffs only relied on three specific public statements misses the point. The jury instruction on	Plaintiffs' response: Browne's 1999 Declaration is not relevant to ratification because the only misleading or untruthful media statements that plaintiffs relied on were: (1) the military ordered CNL to take the military to the platform; (2) CNL did not control the helicopters used in the Parabe attack; and (3) CNL did not pay the military. Plaintiffs did not introduce any media statements for purposes of their

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<p><i>DECLARATION SHOULD BE REDACTED EXCEPT THE PORTIONS USED FOR IMPEACHMENT. The remainder is inadmissible hearsay.</i></p>	<p>ratification states that "failure to disavow the Nigerian security forces acts may constitute ratification." If defendants were informed after the fact that the invaders were armed and had placed Molotov cocktails around the barge, as Browne's declaration relays, then the jury may find that defendants had no reason to disavow conduct of the Nigerian military that lead to the rescue of a hostile takeover.</p> <p>The ratification jury instruction also states that failure to investigate the Nigerian military's conduct may constitute ratification. The jury could find that questioning the workers about their experience and receiving statements is an investigation.</p> <p>Even if plaintiffs' ratification theory were limited to defendants' public statements, Browne's written statement would still be relevant to notice. Defendants should be able to establish that defendants made many true statements, such as that the invaders were armed with clubs and knives, to defend plaintiffs' assertion that defendants' intent was to make misstatements and "cover-up" what had happened at Parabe. Finally, public statements that the invaders were armed is already in the trial transcript, as a required completeness</p>	<p>ratification claim that the Ilaje were armed, so Browne's Declaration cannot possibly be relevant to plaintiffs' ratification claim.</p> <p>Even if Browne's declaration has some limited relevance, such relevance is greatly outweighed by substantial prejudice. Browne's signature on his declaration (Exh. 741) differs substantially from his signature on his letter to CNL (Exh. 742). Browne Dep., 266:17-267:11. Browne could not remember the circumstances under which his declaration "came into being" (Browne Dep., 82:9-12) and several paragraphs of Tim Browne's declaration are literally identical to Mike Browne's declaration. Tim Browne acknowledged that several paragraphs of his declaration were not based on personal knowledge; such paragraphs must have been based on hearsay. E.g., Browne Dep., 272-273. All of these facts show that the Browne declaration is extremely unreliable and should not be admitted, except for impeachment.</p> <p>Further, defendants themselves have not designated the sections of Tim Browne's deposition in which he purports to authenticate his declaration (pp.80-82), and they therefore</p>

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267:24-25	designations to plaintiffs' designation of Gorell. 11/12/08 Tr., 1618:6-17. Plaintiffs' arguments regarding Tim Browne's declaration go to weight, not admissibility.	cannot rely on it.
268:4-10		
268:14-23		
269:23-270:1		
270:3-4		
270:10-17		
270:20-271:2		

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271:11-25	Completeness designation: 272:1-6, 272:15-24	Defendants' "completeness" designations here are unnecessary. If they are accepted, plaintiffs add 272:7-10, 272:12-13.
<p>275:3-4 <i>Exhibit 543 - ALL MATERIAL IN MICHAEL BROWNE'S DECLARATION SHOULD BE REDACTED EXCEPT THE PORTIONS USED FOR IMPEACHMENT. The remainder is inadmissible hearsay</i></p>	<p>Defendants' response: Document is relevant for notice and state of mind of CNL and bears on plaintiffs' ratification claims. Document should not be redacted.</p> <p>Plaintiffs' argument that Browne's statement is not relevant to ratification because plaintiffs only relied on three specific public statements misses the point. The jury instruction on ratification states that "failure to disavow the Nigerian security forces acts may constitute ratification." If defendants were informed after the fact that the invaders were armed and had placed Molotov cocktails around the barge, as Browne's declaration relays, then the jury may find that defendants had no reason to disavow conduct of the Nigerian military that lead to the rescue of a hostile takeover.</p> <p>The ratification jury instruction also states that failure to investigate the Nigerian military's conduct may constitute ratification. The jury could find that questioning the workers</p>	<p>Plaintiffs' response: Browne's Declaration is not relevant to ratification because the only misleading or untruthful media statements that plaintiffs relied on were: (1) the military ordered CNL to take the military to the platform; (2) CNL did not control the helicopters used in the Parabe attack; and (3) CNL did not pay the military. Plaintiffs did not introduce any media statements for purposes of their ratification claim that the Ilaje were armed, so Browne's Declaration here cannot possibly be relevant to plaintiffs' ratification claim.</p> <p>Defendants, not plaintiffs, put evidence in through Gorell that Chevron's media employee made a public statement the Ilaje were armed. This "completeness" designation was not "required" by anyone – defendants put it in voluntarily.</p> <p>Even if Exh. 543 has some limited relevance, such relevance is greatly outweighed by substantial prejudice. Mike Browne testified in his deposition that he couldn't remember</p>

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	<p>about their experience and receiving statements is an investigation.</p> <p>Even if plaintiffs' ratification theory were limited to defendants' public statements, Browne's written statement would still be relevant to notice. Defendants should be able to establish that defendants made many true statements, such as that the invaders were armed with clubs and knives, to defend plaintiffs' assertion that defendants' intent was to make misstatements and "cover-up" what had happened at Parabe. Finally, public statements that the invaders were armed is already in the trial transcript, as a required completeness designation to plaintiffs' designation of Gorell. 11/12/08 Tr., 1618:6-17.</p> <p>Plaintiffs' arguments regarding Exhibit 543 go to weight, not admissibility.</p>	<p>if he played any role in drafting his own declaration, raising the inference that Chevron's attorneys in fact drafted it. M. Browne Dep., 464:22-24; see also M. Browne Dep., 475:17-476:11 (M. Browne's declaration states that the Ilaje had breached the "laws of a sovereign nation," but Browne had no idea what this meant). Mike Browne further testified that several of the paragraphs of his declaration were not based on his personal observation, so they must be based on hearsay. E.g., M. Browne Dep., 470-472 (Browne did not personally observe Ilaje with a broken bottle; did not personally observe his brother's phone call to the U.S. Embassy employee). He further testified that several aspects of his declaration were not consistent with his recollection, e.g., paragraph four states that the Ilaje were wearing red headbands was not consistent with Browne's recollection. M. Browne Dep., 467:7-15.</p>
275:7-11		
275:22-276:18		

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276:21-25		
278:1-18		
278:21-22		
278:24-279:3		
279:22-280:3		
280:7-13		
280:21-281:4		
281:8-12	602 Speculation.	The testimony is proper impeachment: Several paragraphs of the Tim and Mike Browne's declarations are identical. Tim Browne's failure to recall whether he and his brother coordinated their declarations, and his testimony on cross that maybe they did coordinate it (and his demeanor while he

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260:19-24 <i>(Plaintiffs have conditionally designated this portion above as well)</i>		says it) is proper impeachment impeachment.
261:1		
261:15-23		
261:25		
285:9-15		
288:15-18		
288:20-22		

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288:24-25		
289:4		
289:6-9		
289:12-18		
290:4-7		
290:13-16		
290:25-291:3		
299:1-6	Defendants' counter designate: 305:15-307:16.	
304:10-20		