

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BOWOTO ET AL,

No. C 99-02506 SI

Plaintiff,

**FURTHER ORDER RE: TRIAL  
PARTICIPANTS' COMMUNICATIONS  
WITH PRESS DURING PENDENCY OF  
TRIAL**

v.

CHEVRON CORPORATION ET AL,

Defendant.

EarthRights International (ERI) seeks clarification from this Court regarding its November 7, 2008 order [Docket No. 2069] barring trial participants from communicating with the press about the trial of *Bowoto v. Chevron Corporation* while the trial is pending.

Marco Simons, an ERI employee, is listed as an attorney of record in this case. Mr. Simons has appeared at counsel table during this trial and identified himself as “trial counsel” when he testified. The Court’s prohibition on communications with the press clearly applies to Mr. Simons. ERI seeks clarification on whether the prohibition applies to the rest of ERI.

ERI describes itself as a “multidisciplinary advocacy and legal organization” consisting of about 30 employees. *See* ERI Letter Brief, at 4-5. [Docket No. 2076] According to ERI’s bylaws, the organization’s “law firm” is comprised of all U.S.-licensed attorneys in the organization’s legal program as well as the staff on its legal committee. *See id.*, at 5. ERI argues the “law firm” is organizationally distinct from the rest of ERI. ERI has made no showing, however, that there is any screening mechanism in place to segregate ERI’s “law firm” from the rest of its employees. Accordingly, on this record the Court finds that ERI as a whole represents plaintiffs and is therefore a “trial participant” for the purposes of the Court’s November 7 Order.

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In light of this finding, the Court offers the following guidance to ERI on the issues raised in its November 10 letter brief:

- The order applies to all communications about the case to the media
- The order prohibits public statements about the case
- ERI lists eleven activities on page 6 of its letter brief. All of these activities are prohibited until the trial is over.
- ERI may comment on the case on a private basis to anyone who is not a member of the news media, including donors, members of Congress and their staff, other members of the U.S. government, law professors, law school classes or other lawyers
- ERI may not comment to the media on an embargoed basis
- The order is in effect until the Phase II verdict, if any, is returned.

**IT IS SO ORDERED.**

Dated: 11/21/08

  
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SUSAN ILLSTON  
United States District Judge