

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 SUMMA RESOURCE HOLDINGS
5 LLC,

6 Plaintiff,

7 v.

8 CARBON ENERGY LIMITED,

9 Defendant.

Case No. 15-cv-05334-TEH

**ORDER REGARDING
SUPPLEMENTAL BRIEFING;
CONTINUING HEARING**

10 On December 18, 2015, Defendant Carbon Energy Limited (“Carbon”) filed
11 Motions to Dismiss and Strike. Docket No. 16. Plaintiff Summa Resource Holdings, LLC
12 (“Summa”) timely opposed the motions. Docket No. 17. The matter is currently set for
13 oral argument on February 22, 2016.

14 Throughout its motions, Carbon repeatedly argues that Queensland law governs the
15 share sale agreement (“Agreement”) entered into by the parties, and therefore applies to all
16 claims arising from the Agreement. Docket No. 16 at 4, 8, 11, 13, 14-16, 21. In
17 opposition, Summa requests that if the Court finds a choice of law determination to be
18 necessary at this stage of the proceedings, the Court order the parties to submit
19 supplemental briefs on the issue. Docket No. 17 at 9 n.7.

20 Having considered the parties’ written arguments, the Court now finds that a choice
21 of law determination may be necessary to rule on one or more aspects of Carbon’s
22 motions. Accordingly, IT IS HEREBY ORDERED that:

- 23 1. Each party shall file a supplemental brief of no more than fifteen pages by
24 March 1, 2016. The brief shall address: (1) the scope of the Agreement’s
25 choice of law provision, including whether the provision reaches tort claims;
26 (2) whether Queensland and California law direct different outcomes on
27 Carbon’s motion to dismiss each of Summa’s eight claims; and (3) if the
28 Court should find that Queensland law governs any claim, why the Court

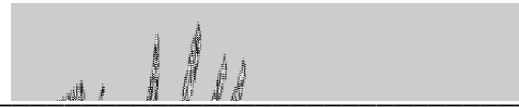
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

should not decline to exercise its jurisdiction over this matter under the doctrine of forum non conveniens.

2. Each party may file an opposition brief of no more than fifteen pages by March 15, 2016. Reply briefing is not permitted and will not be considered by the Court.
3. The motion hearing previously set for February 22, 2016 is continued to **March 28, 2016** at 10:00 AM in Courtroom 2, 17th Floor, San Francisco. On that date, the parties shall come prepared to argue both the issues raised in Carbon's motions and the issues raised in the supplemental choice of law briefing.

IT IS SO ORDERED.

Dated: 02/16/16



THELTON E. HENDERSON
United States District Judge