

1 KATHRYN LEE CRAWFORD-BOYD, ESQ. (SBN 189496)

lboyd@srbr-law.com

2 RAJIKA L. SHAH, ESQ. (SBN 232994)

rshah@srbr-law.com

3 **SCHWARCZ, RIMBERG, BOYD & RADER, LLP**

6310 San Vicente Boulevard, Suite 360

4 Los Angeles, California 90048

Phone: (323) 302-9488, Fax: (323) 931-4990

5 TERRI MARSH, ESQ. (*pro hac vice*)

terri.marsh@hrif.net

6 BRIAN PIERCE, ESQ. (*pro hac vice*)

brianp@hrif.net

7 **HUMAN RIGHTS LAW FOUNDATION**

1615 L Street NW, Suite 1100

8 Washington, D.C. 20036

9 Phone: (202) 369-4977, Fax: (323) 931-4990

10 JUDITH BROWN CHOMSKY (*pro hac vice*)

jchomsky@igc.org

11 **LAW OFFICES OF JUDITH BROWN CHOMSKY**

8210 New Second Street

12 Elkins Park, PA 19027

Phone: (215) 782-8327, Fax: (215) 782-8368

13 Attorneys for PLAINTIFFS

14 **UNITED STATES DISTRICT COURT FOR THE**
15 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

16 DOE I, DOE II, Ivy HE, DOE III, DOE
17 IV, DOE V, DOE VI, ROE VII, Charles
LEE, ROE VIII, and LIU Guifu, and
18 those individual similarly situated,

19 Plaintiffs,

20 vs.

21 CISCO SYSTEMS, INC., John
22 CHAMBERS, Thomas LAM, Owen
23 CHAN, Fredy CHEUNG, and DOES 1-
24 100,

25 Defendants.

Case No. 5:11-cv-02449-EJD-PSGx
Assigned to the Hon. Edward J. Davila

**DECLARATION OF RAJIKA SHAH IN
SUPPORT OF PLAINTIFFS' MOTION
TO RESCHEDULE BRIEFING**

[*N.D. Cal. Local Rule 7-11*]

Action Filed: May 19, 2011
FAC Filed: Sept. 2, 2011

1 **DECLARATION OF RAJIKA SHAH**

2 I, RAJIKA SHAH, declare:

3 1. I am an attorney at law duly licensed to practice law in the State of California and
4 admitted to practice before the U.S. District Court for the Northern District of California. I am an
5 associate with the law firm of Schwarcz, Rimberg, Boyd & Rader, LLP (“SRBR”), one of the
6 attorneys of record for Plaintiffs. I am one of the attorneys responsible for this file and have
7 personal knowledge of the facts stated herein, and if called as a witness I would and could
8 competently testify thereto.

9 2. On October 17, 2011, the U.S. Supreme Court granted a writ of certiorari in *Kiobel v.*
10 *Royal Dutch Petroleum Co.* and *Mohamad v. Rajub*, Nos. 10-1491 and 11-88, --- S.Ct. ----, 79
11 USLW 3728 (2011). The Supreme Court will be addressing two questions: (1) whether the issue
12 of corporate civil tort liability under the Alien Tort Statute (“ATS”), 28 U.S.C. § 1350, is a merits
13 question or instead an issue of subject matter jurisdiction; and (2) whether corporations are
14 immune from tort liability for violations of the law of nations or may instead be sued in the same
15 manner as any other private party defendant under the ATS.

16 3. On October 19, 2011, Isaac Nesser of Quinn Emanuel Urquhart & Sullivan, LLP, counsel
17 for Defendants, inquired whether Plaintiffs would be willing to stay the entirety of this case
18 pending a decision in *Kiobel* and *Mohamad*. I informed him that Plaintiffs opposed a stay.

19 4. On October 25, 2011, the Ninth Circuit issued an en banc decision in *Sarei v. Rio Tinto,*
20 *PLC*, Nos. 02-56256, 02-56390, 09-56381, --- F.3d ----, 2011 WL 5041927 (9th Cir. 2011),
21 which also bears on a number of questions of law at issue in the present case.

22 5. In light of those decisions, on October 28, 2011, I informed Mr. Nesser that Plaintiffs
23 would be willing to reschedule briefing on all issues other than the following dispositive issues
24 going to the justiciability of the entire case: (1) whether the case presents a non-justiciable
25 political question, (2) whether the complaint challenges an act of state, and (3) whether the case
26 violates principles of international comity.

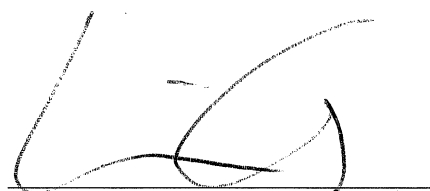
27 6. On November 2, 2011, I contacted Mr. Nesser for Defendants’ position on Plaintiffs’
28 proposal. Mr. Nesser informed me via email that Defendants continue to assert that the action

1 ought to be stayed in its entirety until after the Supreme Court decides *Kiobel* and *Mohamad*, and
2 that they would oppose this motion. The following day I spoke with Mr. Nesser again, indicating
3 Plaintiffs' willingness to allow Defendants an opportunity to brief the three dispositive
4 justiciability issues in light of *Sarei*. Mr. Nesser stated that Defendants were opposed to further
5 briefing.

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

I declare under penalty of perjury of the laws of the United States that the foregoing is true
and correct.

Executed this 4th day of November, 2011, at Los Angeles, California.



Rajika L. Shah, Esq.