

BP Investors Allowed to Add More Statements to Fraud Case

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BP Plc's investors can add more claims to a multibillion-dollar lawsuit accusing the company of lying before and after the 2010 Gulf of Mexico oil spill, a U.S. judge ruled.

U.S. District Judge Keith P. Ellison in Houston allowed holders of BP American depositary receipts to expand claims alleging violations of U.S. securities laws. The new claims involve statements by ex-Chief Executive Officer Tony Hayward on how fully BP had implemented safety improvements in the Gulf of Mexico prior to the rig explosion that caused the spill.

"Hayward did not make one or two stray comments about the scope" of the safety program, Ellison said yesterday in a 62-page opinion. "He repeatedly emphasized its expansiveness in his most important presentations to investors."

The investors, led by Ohio and New York pension plans, said BP publicly declared its commitment to and implementation of expanded safety measures while the company internally cut budgets and personnel and rejected employees' safety warnings.

Ellison previously allowed investor allegations that BP initially hid the true size of the oil-well blowout to limit the impact on its stock price to proceed to trial. He limited participation in the securities-fraud litigation to investors who bought shares on the U.S. stock exchange.

Safety Program

"We believe the evidence will show that BP made substantial misrepresentations with respect to the adequacy of its

safety program and spill-response program, and that these misrepresentations caused significant harm to the shareholders," Richard Mithoff, a lawyer representing individual investors in the case, said yesterday in a phone interview.

Scott Dean, BP's spokesman, declined to comment on the ruling.

BP has denied fraud or any lack of attention to safety in court filings. Investors are seeking to "transform a matter involving allegedly negligent processes into an action for securities fraud," the company said in court papers. "A commitment to safety is not a guarantee that no future accidents will occur."

Hayward made public statements that were "verbatim and consistent" with company safety progress reports supplied to top executives, Richard Pepperman, BP's attorney, told Ellison during a November hearing on the claims.

'Granular' Detail

Hayward said in a post-spill deposition that he personally knew the company's promised operational safety program wasn't fully implemented in the Gulf of Mexico at the time of the Deepwater Horizon incident, as he'd told investors it was, Mithoff said at the hearing.

"Hayward was the key individual tracking that progress," Mithoff told Ellison. "BP was not obligated to talk about the program, and yet it did. It was disconcerting to investors to find that 'all' didn't mean all operations of BP."

Economic Loss

Investor securities-fraud suits are among hundreds of claims filed in U.S. courts after the explosion and sinking of the Deepwater Horizon drilling rig in the

Gulf of Mexico in April 2010. Eleven people were killed in the blast and hundreds of miles of coastline were soiled in what became the largest offshore spill in U.S. history.

Injury, economic loss and environmental suits are combined before a federal judge in New Orleans. The investor suit, which seeks unspecified billions of dollars in lost share value, is combined with other shareholder actions before Ellison in federal court in Houston.

Ellison previously dismissed shareholders' claims against several executives, including Chief Executive Officer Robert Dudley and BP America Inc.'s chairman and president, Lamar McKay. Ellison yesterday threw out claims against Andy Inglis, BP's former global head of exploration and production, while allowing claims against Hayward and Doug Suttles, former chief operating officer for exploration and production, to continue.

BP shares fell about 40 percent in the weeks after the explosion, investors said in their complaint. The drop eliminated billions of dollars in the company's market value, shareholders said.

The pension plans leading the litigation are suing on behalf of investors in BP ADRs from Jan. 16, 2007, to May 28, 2010.

The case is *In re BP Plc Securities Litigation*, 4:10-md-2185, U.S. District Court, Southern District of Texas (Houston).

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