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NY Court Nixes Norex's Siberian Oil Field Suit

By **Shayna Posses**

Law360, New York (August 31, 2015, 8:11 PM ET) -- A New York court tossed Norex Petroleum Ltd.'s lawsuit targeting BP PLC and two billionaires over an alleged plot to steal Norex's \$500 million stake in a Russian oil company, holding that a Siberian court's decision diluting its investment stands up in American court.

Judge Eileen Bransten held Thursday that the principle of international comity applies to a Siberian's court decision to slash Norex's holdings in ZAO Yugraneft Corp., killing the long-running suit's claims that the two billionaires partnered with BP and others to illegally force Norex out of its controlling stake, in part by strong-arming the allegedly corrupt Russian court.

"As numerous other courts have held, the Russian court system cannot be said to be so corrupt as to deprive litigants of their due process rights," the opinion said. "Norex chose to invest in a Russian entity and should not be heard to complain about the Russian legal system to an American court."

The Canadian oil company first sued Leonard Blavatnik and Victor Vekselberg in 2002 in federal court under the Racketeer Influenced and Corrupt Organizations Act. After two appeals, the Second Circuit dismissed the RICO suit in 2010 because the statute has no extraterritorial jurisdiction.

Norex relaunched the action in 2011 in New York state court. In a **September 2012 decision**, Judge Bransten found that Alberta law applied to the filing deadlines in the case, and that under the laws of the Canadian province, Norex's claims had been filed too late. An intermediate appeals court **unanimously affirmed** that order in 2013.

Norex had alleged that billionaire Vekselberg, along with Russian-American billionaire Blavatnik, schemed to force Norex out of its stake in Yugraneft, which controlled lucrative oil fields in Siberia. Norex claims Blavatnik and Vekselberg pressured a corrupt Siberian court to dilute Norex's investment in Yugraneft, and in 2001 had militiamen armed with AK-47 assault rifles storm Yugraneft's offices as part of their illegal takeover of the company.

The suit claims TNK-BP Ltd., a partnership between BP and billionaires controlling Yugraneft, profited as a result of the company's increased access to the Siberian oil fields after Blavatnik's and Vekselberg's takeover.

New York's highest court, the Court of Appeals of the State of New York, **reinstated the suit** in 2014, ruling two lower state courts erred in dismissing the case as untimely.

The defendants renewed their bid to toss the suit as time-barred, but the Supreme Court of New York wasn't swayed on that point Thursday.

However, the court held that the suit must be dismissed anyway, rejecting Norex's claims

that even if comity is extended to the Siberian court's decision, res judicata doesn't apply.

In similar cases, the court has held that once it has been established that a foreign judgment is in line with U.S. law, the claims cannot be pursued further by the parties, the opinion said.

Judge Bransten also shot down Norex's contention that the claims arise from conduct orchestrated from New York by New York residents. The alleged harm — the loss of a controlling interest in a Russian company — occurred in Russia, the court said.

"Here, the alleged connection to New York is that some defendants 'participated in and directed' the tortious conduct that occurred in Russia, which is an insufficient connection with New York," the opinion said.

The defendants established that New York is an inconvenient forum, the court said, striking down Norex's contention that the Russian court lacked jurisdiction over it because the commencement documents were improperly served. The company "indisputably" knew about the proceedings, the court held.

Owen C. Pell, who represents the defendants, praised the opinion in a Monday email.

"We are very pleased by Justice Bransten's ruling, especially the extent to which she issued a comprehensive ruling that considered the various grounds for dismissal raised by the defendants," he said.

Representatives for Norex didn't immediately return request for comment Monday.

Norex is represented by Mary Vyskocil of Simpson Thacher & Bartlett LLP.

The defendant-respondents are represented by Owen Pell, Scott Hershman, Brian Fritz and Max Shterngel of White & Case LLP, Daryl A. Libow and Christopher M. Viapiano of Sullivan & Cromwell LLP, Robert A. Johnson of Akin Gump Strauss Hauer & Feld LLP and Ian M. Turetsky and Evan K. Barber of Reed Smith LLP, Corey Worcester of Quinn Emanuel Urquhart & Sullivan LLP and Joshua L. Blosveren of Hoguet Newman Regal & Kenney LLP, among others.

The case is Norex Petroleum Ltd. v. Blavatnik et al, 650591/11, in the Supreme Court of New York County.

--Additional reporting by David Siegel. Editing by Kelly Duncan.

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