

Crack of Dawn

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TOM CLANCY

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AMERICAN LAWSUIT GETS GO-AHEAD

Apartheid victims to sue

SAPA-AP & BABALO NDENZE

A UNITED States lawsuit by local non-government organisations to get multinational companies to pay up for profiting from apartheid - which the South African government had tried to stop - is to go ahead.

Last night the Khulumani Support Group for apartheid victims claimed victory after the US Supreme Court ruled yesterday that it could not intervene in the dispute over the rights of apartheid victims to sue US corporations in US courts because four of the nine justices had to sit out the case over apparent conflicts.

The result is that the lawsuit accusing some prominent companies of violating international law by assisting South Africa's former apartheid government will go forward.

Shirley Gunn, Western Cape spokeswoman for the the 55 000-member Khulumani, said they were very happy about the developments.

Last year the group denounced a decision by justice minister Brigitte Mabandla to oppose their lawsuit.

"It's great news. These companies really want this matter disposed of and they failed. It's our victory. But it will go back to the regional courts now so we will take it step by step," said Gunn.

Last year Archbishop Emeritus Desmond Tutu also made a "friend of the court" affidavit to the US court in support of the apartheid victims' efforts to get redress from the 50-odd companies based in Europe, Canada and the US.

The court's hands were tied by federal laws that require at least six judges to hear any case before them.

Short of the required number by one, the court took the only path available to it and upheld an appeal court ruling allowing the suit to proceed.

The judges have ties to Bank of America, Bristol Myers Squibb, Colgate-Palmolive, Credit Suisse, Exxon Mobil, Hewlett-Packard, IBM and Nestlé, among nearly three dozen companies that asked the high court to stop in.

The judges' latest financial disclosures show:

Chief Justice John Roberts owned Hewlett-Packard stock.

Judge Stephen Breyer owned stock in Colgate-Palmolive, Bank of America, IBM and Nestlé.



AN ARTICULATED truck and a tanker are engulfed in flames after colliding on Townhill, near Pietermaritzburg, yesterday. Netcare 911 spokesman Chris Botha said the vehicles were travelling east towards Pietermaritzburg when they collided. One driver was killed and the other was treated for back injuries. Transport department spokesman Zinhle Mngomezulu said the road was closed for nearly 11 hours. In another incident, two cars caught alight after colliding on the M4 southbound carriageway near Jacobs yesterday. Both drivers were injured and were taken to hospital

Judge Samuel Alito holds shares in Exxon Mobil, which caused him to sit out the still-pending dispute over the \$2.5 billion (R19.4 billion) punitive damages award for the Exxon Valdez disaster. Alito also owns Bristol-Myers Squibb.

Judge Anthony Kennedy does not hold stock in any affected company, but his son, Gregory, is a managing director at Credit Suisse. He sat out a case last term involving the investment bank.

Business groups, the Bush administration and the current South African government also sought the high court's intervention. They argued that the lawsuit was damaging

international relations, threatening to hurt South Africa's economic development and punishing the companies using a fuzzy concept of aiding violations of international law.

Lawyers for the South Africans bringing the complaint said it was premature for the supreme court to get involved. The lawyers said they planned to narrow their complaint, perhaps omitting some corporations and showing more clearly how the

companies had assisted the apartheid government.

One of Khulumani's lawyers, Charles Abrahams, said the matter would now be referred to the district court.

"Effectively the opinion of the Second US Circuit Court of Appeals (in New York) is the opinion that prevails. A hearing has been set for July 8 where it will be decided how (appeal court Judge John) Sprizzo will conduct the matter further," said Abrahams.

Abrahams said the South African government's submission could be re-argued or the court could take its own approach "or come up with its own order".

The case involves the Alien Tort Claims Act, an 18th-century law that allows foreigners to sue in US courts over international law violations. It was originally intended to allow foreigners to have a place to make claims against pirates, but the law has been increasingly used in the past 15 years to sue corporations for their alleged involvement in human rights abuses overseas.

The lawsuit raises sticky questions about US policy towards governments accused of repression. For example, the government may impose targeted sanctions while still allowing commerce in order to encourage reform. The suit could undermine that policy.

More than 9 000 killed in earthquake in China

BELJING: Transport and communication networks around China were thrown into chaos yesterday after a powerful earthquake struck the country's south-west, killing more than 9 000 people.

The 7.8-magnitude quake jolted Wenchuan, a mountainous region in Sichuan province, just before 2.30pm.

The death toll in Sichuan alone reached 8 533, according to state-run Xinhua news agency.

Thirty-one passenger trains and 149 cargo trains were stranded, the agency said.

A cargo train went off the rails

and caught fire in a tunnel near Huixian County in north-western Gansu as the tunnel began to collapse, a spokesman for the ministry of railways said. One man was injured during the incident.

All trains to and from Chengdu, the capital of Sichuan, were ordered to stop. It was reported earlier that the city's airport had also been shut down while engineers assessed the runways.

Air China announced that all its flights to Chengdu had been diverted to other airports, and there were delays reported on planes travelling to neighbouring Chong-



A WOMAN crawls to safety from a collapsed building after a severe earthquake in China, yesterday

qing, and Xian in the north.

Chinese Premier Wen Jiabao called the earthquake a "major disaster" and urged calm. - *Sapa-AFP*

FULL STORY: PAGE 7

Hijackers arrested after chase, shootout in suburbs

MERCURY REPORTER

A CAR chase and an exchange of gunfire preceded the arrest of two men believed to be responsible for a hijacking in central Durban last night.

Police spokesman Muzi Mngomezulu said police officers saw three men pulling the driver of a Toyota Tazz out of his car in Beatrice Street.

The men fled when the police intervened and a chase ensued. The police forced the car off the road at the corner of Kittymer and Win-



ONE of the suspected hijackers

dermere roads in Morning-

side, where the hijackers ran away.

"One of the men fired at the police and they returned fire. Two of the men, one of whom was wounded, were arrested. The third managed to evade officers. He is still at large," Mngomezulu said.

He praised the quick action of the officers who gave chase.

"Their reaction was instrumental in the arrests of the two men and the recovery of the stolen vehicle. They must be commended," he said.

SURVIVOR TELLS OF ORDEAL: PAGE 3

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