

Court of Appeal for Ontario Refuses to Enforce American Letter of Request

In *Re Presbyterian Church of Sudan*, released September 26, 2006 (available [here](#)) the Court of Appeal for Ontario held that a letter of request from the United States District Court could not be enforced in Ontario. Residents and former residents of Sudan sued Talisman Energy Inc, a Canadian company, in the United States for acts of genocide, torture and other human rights violations, relying on the *Alien Tort Claims Act* for jurisdiction. Despite the government of Canada having formally expressed its concerns about the litigation proceeding in the United States, through a diplomatic note, the court held that the letter of request was not contrary to the public policy of Canada. However, the court refused the request on the basis that the evidence in support - an affidavit from New York counsel - was insufficient to establish that the evidence sought was relevant, necessary and not otherwise obtainable. The court described the affidavit as containing only "bald assertions" on these important elements of the test for giving effect to a foreign letter of request.