

Roundup of Recent Alien Tort Statute Cases Post-Kiobel

For those interested in the impact that *Kiobel* is having on Alien Tort Statute litigation, John Bellinger of Arnold & Porter (who was the Legal Advisor at the US State Department) has an interesting post here. After reviewing the cases, John concludes

It is clear from these decisions that the courts remain uncertain about what domestic conduct is necessary to “touch and concern” the territory of the United States and whether the conduct of corporate defendants inside the United States must itself violate the law of nations. In particular, there already appears to be a circuit split between the 9th and 11th circuits regarding whether the Supreme Court intended lower courts to apply to ATS cases the “focus” test in Morrison v. Australian National Bank, where the Supreme Court concluded that, in considering whether conduct that occurs both inside and outside the United States violates a statute without extraterritorial application, the courts should determine whether the conduct that is the “focus of congressional concern” occurred inside or outside the United States. I discuss the decisions in more detail below.

The whole piece is definitely worth a read.