

## Final Decisions in Alien Tort Statute Cases Pending at the Time of the *Kiobel* Decision

Final Denials on Extraterritoriality Grounds<sup>1</sup>: 63% of Total ATS Cases (26 of 41)

December 2017

CASE	CURRENT STATUS
1. <i>Doe v. Drummond Co., Inc.</i> , 782 F.3d 576 (11th Cir. 2015)	Petition for writ of certiorari denied on February 29, 2016.
2. <i>Sikhs for Justice, Inc. v. Nath</i> , 596 F. App'x 7 (2d Cir. 2014)	Mandate issued January 15, 2015.
3. <i>Ellul v. Congregation of Christian Bros.</i> , 774 F.3d 791 (2d Cir. 2014)	Mandate issued January 12, 2015.
4. <i>Mastafa v. Chevron Corp.</i> , 770 F.3d 170 (2d Cir. 2014)	Mandate issued November 18, 2014.
5. <i>Mujica v. AirScan, Inc.</i> , 771 F.3d 580 (9th Cir. 2014)	Petition for writ of certiorari denied on December 14, 2015 (136 S. Ct. 690).
6. <i>Baloco v. Drummond Co., Inc.</i> , 767 F.3d 1229 (11th Cir. 2014)	Petition for writ of certiorari denied on November 2, 2015 (136 S. Ct. 410).
7. <i>Cardona v. Chiquita Brands Int'l, Inc.</i> , 760 F.3d 1185 (11th Cir. 2014)	Petition for writ of certiorari denied on April 20, 2015 (135 S. Ct. 1842).
8. <i>Chowdhury v. Worldtel Bangladesh Holding, Ltd.</i> , 746 F.3d 42 (2d Cir. 2014)	Petition for writ of certiorari denied on October 20, 2014 (135 S. Ct. 401).
9. <i>Ben-Haim v. Neeman</i> , 543 F. App'x 152 (3d Cir. 2013)	Mandate issued December 2, 2013.
10. <i>Balintulo v. Daimler AG</i> , 727 F.3d 174 (2d Cir. 2013)	Petition for writ of certiorari denied on June 20, 2016 (136 S. Ct. 2485).
11. <i>Adhikari v. Daoud &amp; Partners</i> , 845 F.3d 184 (5th Cir. 2017)	Petition for writ of certiorari denied on October 2, 2017 (138 S. Ct. 134).
12. <i>Jaramillo v. Naranjo</i> , 10-cv-21951, 2014 WL 4898210 (S.D. Fla. Sept. 30, 2014)	Remaining claim proceeding in district court.
13. <i>Jovic v. L-3 Servs.</i> , 69 F. Supp. 3d 750 (N.D. Ill. 2014)	Remaining claims voluntarily dismissed on September 13, 2016.

<sup>1</sup> The cases in this chart do not include ATS cases brought against the U.S. government or its officers, and do not include *pro se* claims with the exception of *Ben-Haim v. Neeman*, which was an early circuit court decision.

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14. <i>Doe I v. Cisco Sys., Inc.</i> , 66 F. Supp. 3d 1239 (N.D. Cal. 2014)	Appeal vacated pending resolution of <i>Jesner v. Arab Bank, PLC</i> in the Supreme Court.
15. <i>Warfaa v. Ali</i> , 811 F.3d 653 (4th Cir. 2016)	Petition for writ of certiorari denied on June 26, 2017 (137. Ct. 2289). Remaining claim proceeding in district court.
16. <i>William v. AES Corp.</i> , 28 F. Supp. 3d 553 (E.D. Va. 2014)	Remainder of case voluntarily dismissed on July 31, 2014.
17. <i>Mamani v. Berzain</i> , 21 F. Supp. 3d 1353 (S.D. Fla. 2014)	Remaining claim proceeding in district court.
18. <i>Simon v. Republic of Hungary</i> , 37 F. Supp. 3d 381 (D.D.C. 2014)	Plaintiffs did not appeal dismissal of ATS claim. D.C. Circuit allowed some plaintiffs to go forward with other claims. <i>Simon v. Republic of Hungary</i> , 812 F.3d 127 (D.C. Cir. 2016).
19. <i>Dacer v. Estrada</i> , 10-cv-4165, 2013 WL 5978101 (N.D. Cal. Nov. 8, 2013)	Default judgment granted on non-ATS claim.
20. <i>Chen Gang v. Zhao Zhizhen</i> , 04-cv-1146, 2013 WL 5313411 (D. Conn. Sept. 20, 2013)	Motion to amend complaint denied on March 31, 2016.
21. <i>Tymoshenko v. Firtash</i> , 11-cv-2794, 2013 WL 4564646 (S.D.N.Y. Aug. 28, 2013)	Motion to amend complaint denied on September 18, 2015. Case closed.
22. <i>Kaplan v. Central Bank of Islamic Republic of Iran</i> , 961 F. Supp. 2d 185 (D.D.C. 2013)	Default judgment granted on non-ATS claims. Appeal pending No. 16-7142 (D.C. Circuit)
23. <i>Hua Chen v. Honghui Shi</i> , 09-cv-8920, 2013 WL 3963735 (S.D.N.Y. Aug. 1, 2013)	At plaintiff's request, the court withdrew its August 1, 2013 order to dismiss and allowed the plaintiffs to voluntarily dismiss the case.
24. <i>Fotso v. Republic of Cameroon</i> , 12-cv-1415, 2013 WL 3006338 (D. Or. June 11, 2013)	No appeal filed.
25. <i>Murillo v. Bain</i> , 11-cv-2373, 2013 WL 1718915 (S.D. Tex. Apr. 19, 2013)	No appeal filed.
26. <i>Doe I v. Nestle USA, Inc.</i> , 766 F.3d 1013 (9th Cir. 2014) District court case 05-cv-5133 (C.D. Cal.)	District court dismissed the case on March 31, 2017 (Docket No. 249). Appeal pending No. 17-55435 (9th Cir.)

**Final Decisions in Alien Tort Statute Cases  
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Final Denials on Non-Extraterritoriality Grounds: 20% of Total ATS Cases (8 of 41)

CASE	CURRENT STATUS
1. <i>Fischer v. Magyar Allamvasutak Zrt.</i> , 777 F.3d 847 (7th Cir. 2015) (forum non conveniens)	Petition for writ of certiorari denied on June 8, 2015 (135 S. Ct. 2817). Plaintiff filed a motion to reinstate the matter in the district court. The district court denied the motion. Appeal pending No. 17-3487 (7th Cir.)
2. <i>Saldana v. Occidental Petroleum Corp.</i> , 774 F.3d 544 (9th Cir. 2014) (political question)	Mandate issued March 19, 2015.
3. <i>Aldana v. Del Monte Fresh Produce N.A., Inc.</i> , 741 F.3d 1349 (11th Cir. 2014) (no abuse of discretion in refusing to reinstate case dismissed on forum non conveniens grounds)	Mandate issued March 12, 2014.
4. <i>Sikhs for Justice v. Badal</i> , 736 F.3d 743 (7th Cir. 2013) (insufficient service)	Mandate issued December 31, 2013.
5. <i>Du Daobin v. Cisco Sys., Inc.</i> , 2 F. Supp. 3d 717 (D. Md. 2014) (failure to state a claim)	No appeal filed.
6. <i>Mohammadi v. Islamic Republic of Iran</i> , 782 F.3d 9 (D.C. Cir. 2015) (foreign sovereign immunity)	Mandate issued May 22, 2015.
7. <i>Licci v. Lebanese Canadian Bank</i> , 834 F.3d 201 (2d Cir. 2016) (no subject matter jurisdiction over corporations)	Petition for writ of certiorari filed on December 20, 2016. Case being held for disposition of <i>Jesner v. Arab Bank</i> .
8. <i>In re Arab Bank, PLC Alien Tort Statute Litigation</i> , 808 F.3d 144 (2d Cir. 2015) (no subject matter jurisdiction over corporations)	Petition for writ of certiorari granted on April 3, 2017 (137 S. Ct. 1432). Appeal pending as <i>Jesner v. Arab Bank, PLC</i> , No. 16-499 (Supreme Court)

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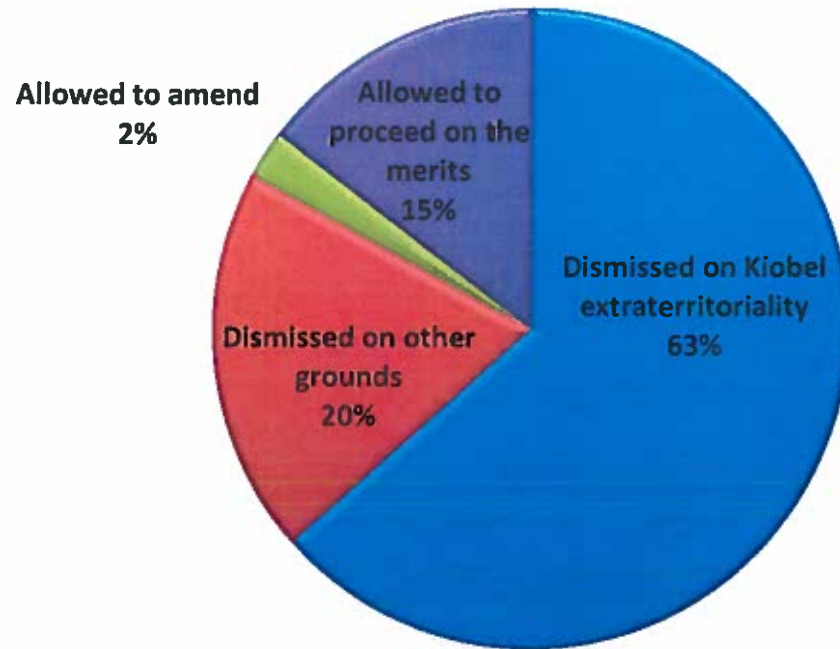
**Cases Awaiting Final Decision Under *Kiobel*: 2% of Total ATS Cases (1 of 41)**

CASE	CURRENT STATUS
1. <i>Shimari v. CACI Premier Tech., Inc.</i> , No. 1:08-cv-827, 2017 WL 2805496 (E.D. Va. 2017)	District court issued opinion setting forth the legal standard for the ATS under which the litigation will proceed. Defendants' motion to dismiss is pending.

**Cases Allowed to Proceed on the Merits: 15% of Total ATS Cases (6 of 41)**

CASE	CURRENT STATUS
1. <i>Doe v. Exxon Mobil Corp.</i> , No. 01-cv-1357, 2015 WL 5042118 (D.D.C. July 6, 2015)	Pre-trial discovery. Temporary stay in discovery pending resolution of <i>Jesner v. Arab Bank, PLC</i> in the Supreme Court.
2. <i>Inst. of Cetacean Res. v. Sea Shepherd Conservation Soc.</i> , 588 F. App'x 701 (9th Cir. 2014)	Petition for writ of certiorari denied on June 8, 2015 (135 S. Ct. 2816). The district court allowed the following claims to proceed under the ATS: safe navigation, freedom from piracy, and financing piracy. On August 22, 2016, the parties jointly moved for permanent injunction resolving all issues.
3. <i>Krishanti v. Rajaratnam</i> , 09-cv-5395, 2014 WL 1669873 (D.N.J. Apr. 28, 2014)	Pre-trial discovery.
4. <i>Ahmed v. Magan</i> , 10-cv-342, 2013 WL 4479077 (S.D. Ohio Aug. 20, 2013)	Defendant failed to appear and thus waived <i>Kiobel</i> defenses; judgment entered in plaintiff's favor.
5. <i>Sexual Minorities Uganda v. Lively</i> , 254 F. Supp. 3d 262 (D. Mass. 2017)	Dismissed at summary judgment on extraterritoriality. Appeal pending No. 17-1593 (1st Cir.)
6. <i>Mwani v. Bin Laden</i> , 947 F. Supp. 2d 1 (D.D.C. 2013)	Plaintiffs awarded damages for assault and battery. <i>Mwani v. Al Qaeda</i> , 2014 WL 4749182 (D.D.C. Sept. 25, 2014).

**Disposition of the 41 ATS cases that were pending at the time of *Kiobel* decision\***



\* as of December 2017