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## Renco Can't Shake Claims Over Poisoning In Peru, Court Told

By **Shayna Posses**

Law360, New York (October 3, 2017, 10:27 PM EDT) -- A priest suing Renco Group Inc. on behalf of children who allegedly suffered lead poisoning from a Peruvian affiliate's metallurgical complex in the Andean highlands told a Missouri federal court on Monday that it has jurisdiction because the New York company and its owner had ultimate say over the complex through Missouri companies they controlled.

Father Chris Collins, who is pursuing litigation on behalf of children who allegedly were exposed to harmful levels of lead by facilities in La Oroya, Peru, blasted claims that the court lacks jurisdiction over New York companies Renco and Renco Holdings Inc. and their owner Ira L. Rennert, contending that they have sufficient connections to Missouri because they completely controlled affiliate Doe Run Resources Corp. and other defendants based in the state.

"At the direction of the non-Missouri defendants located in New York, who maintained daily ownership and control of St. Louis and Peru operations, decisions were made in Missouri that directly injured plaintiffs," Monday's opposition memorandum said. "At all times, defendant Ira Rennert, as owner of the Renco companies and Doe Run companies, has been at the top of the ownership chain of the La Oroya complex. More importantly, Rennert, through the Renco defendants, have consistently controlled the operation of the La Oroya complex."

Renco, Doe Run, Rennert and several other individuals and related entities are facing a slew of actions involving more than 1,600 Peruvian children who allegedly suffered physical and psychological injuries because they lived near Doe Run facilities in La Oroya, Peru, that contained a set of smelters and refineries designed to transform ores mined from the region into metals like copper, zinc and lead. The facility was purchased from the Peruvian government in 1997 by a consortium that included Renco and Doe Run through a Peruvian subsidiary.

Several suits have been consolidated in Missouri federal court for pretrial purposes, and Renco has steadily removed similar actions from state court as they were filed, including a batch of suits it **brought to federal court** in July, contending that the matters fall under federal jurisdiction because they relate to new arbitration the company has initiated against Peru.

Renco saw its arbitration against the country over environmental issues at the plant **dismissed without prejudice** last year over jurisdictional issues, but told the Missouri federal court that it's pursuing new arbitration that will seek to enforce Peru's agreement to assume liability for claims like the ones currently being asserted by the Peruvian children.

Rennert and Renco then asked the Missouri federal court in August to release from the litigation, accusing the plaintiffs of forum-shopping and contending that recent U.S. Supreme Court decisions make it clear that the court lacks personal jurisdiction over the non-Missouri defendants.

For instance, they noted, the court narrowed the scope of specific jurisdiction in *Bristol-Myers Squibb Co. v. Superior Court of California*. In that decision, the justices held that a forum can't claim specific jurisdiction where the plaintiffs aren't residents of the forum state and don't claim to have suffered harm there, with all the conduct giving rise to their claims having occurred elsewhere.

That's precisely the situation here, Renco and Rennert argued.

"Through these actions, numerous Peruvian nationals seek compensation for purported injuries caused and manifested solely in Peru, as a result of alleged misconduct by a Peruvian entity – Doe Run Peru – operating a Peruvian metallurgical complex in La Oroya, Peru," Renco and Rennert said.

They continued, "Rather than seek a remedy from Doe Run Peru, however, plaintiffs have filed these actions, in Missouri, against nearly every entity and individual with any connection (no matter how remote) to Doe Run Peru, solely on the basis that Doe Run Peru is an affiliate of certain of the defendants."

However, the plaintiffs fought back Monday, contending, for one, that the non-Missouri defendants waived their objections to personal jurisdiction by waiting until now to make this argument even though they've been litigating these actions for years.

In any case, the court has personal jurisdiction over these defendants even after the Bristol-Myers Squibb decision, they said. Renco and Rennert try to shift the focus of the analysis to the plaintiffs' contacts with a state, but the high court's ruling actually reaffirmed that jurisdictional determinations should be focused on the defendant's relationship with the forum, according to the memorandum.

Keeping that in mind, it's clear that the Missouri court has jurisdiction over Renco and Rennert, the plaintiffs argued. After all, they noted, their pleadings allege that Renco and Rennert facilitated the daily operations of and exerted complete control over the defendants located in the forum, like Missouri company Doe Run, which controlled Doe Run Peru from the state.

Hunter J. Shkolnik, who represents a number of plaintiffs in litigation against Renco, told Law360 in a Tuesday email, "This motion to dismiss is highly suspect given that these defendants have already accepted personal jurisdiction for over 2,000 other lawsuits by children who suffered brain damage from lead poisoning as a result of Doe Run's operations in Peru."

Marc E. Kasowitz, who represents Renco and Rennert, told Law360 in a Tuesday email that the claims should be dismissed because they lack merit and have been brought in the wrong jurisdiction.

"Inasmuch as all of the alleged facts giving rise to the claims took place in Peru, the plaintiffs are residents of Peru, and the facility that is the subject of the action is also located in Peru, the case should have been brought there, not in St. Louis," he said.

The plaintiffs are represented by D. Todd Mathews and Randy L. Gori of Gori Julian & Associates PC, Hunter J. Shkolnik and Paul J. Napoli of Napoli Shkolnik PLLC, and Frank R. Rodriguez and Paulino A. Nunez of Rodriguez Tramont & Nunez PA.

Renco and Rennert are represented by Edward L. Dowd Jr., Terrence J. O'Toole, James E. Crowe III and James F. Bennett of Dowd Bennett LLP and Marc E. Kasowitz, Joshua Greenblatt, Leonard A. Feiwus and Matthew A. Kraus of Kasowitz Benson Torres LLP. Doe Run is represented by Andrew Rothschild, Richard A. Ahrens, Thomas P. Berra Jr. and Michael J. Hickey of Lewis Rice LLC.

The lead case is Collins et al v. The Doe Run Resources Corp. et al., case number 4:15-cv-01704, in the U.S. District Court for the Eastern District of Missouri.

--Additional reporting by Caroline Simson. Editing by Marygrace Murphy.