

73 Fed.Appx. 984

This case was not selected for publication in the Federal Reporter.

Not for Publication in West's Federal Reporter

See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also Ninth Circuit Rule 36-3. (Find CTA9 Rule 36-3) United States Court of Appeals, Ninth Circuit.

CHEVRON USA INC., Plaintiff-Appellant,

v.

PHILLIPS PETROLEUM COMPANY, Defendant-Appellee.

No. 02-35369.

D.C. No. CV-00-00352-JWS.

Argued and Submitted Aug. 11, 2003.

Decided Aug. 25, 2003.

Synopsis

Appeal was taken from judgment of the United States District Court for the District of Alaska, [John W. Sedwick, J.](#), entered in action for breach of contract. The Court of Appeals held that contract governing acquisition of corporation's oil and gas leases and related interests did not apply to acquisition of corporation's stock.

Affirmed.

West Headnotes (2)

[1] Corporations and Business Organizations

🔑 Construction, operation, and effect in general

Contract governing acquisition of corporation's oil and gas leases and related interests did not apply to acquisition of corporation's stock; acquiring the stock in a corporation was not equivalent to acquiring its assets.

Cases that cite this headnote

[2] Corporations and Business Organizations

🔑 Construction, operation, and effect in general

Acquisition of corporation's stock by party to agreement governing acquisition of its assets, which allegedly precluded other party from exercising its rights under the agreement, did not breach covenant of good faith and fair dealing or violate any fiduciary duties, where Federal Trade Commission (FTC) had restricted corporation's ability to dispose of its assets on a piecemeal basis.

Cases that cite this headnote

*985 Appeal from the United States District Court for the District of Alaska; [John W. Sedwick](#), District Judge, Presiding.

Attorneys and Law Firms

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Before [PREGERSON](#), [CANBY](#), and [McKEOWN](#), Circuit Judges.

Opinion

MEMORANDUM*

**1 The district court provided a careful and extensive analysis of Chevron USA Inc.'s claims with respect to the Area of Mutual Interest Agreement ("the AMI"). We agree with the district court's analysis and its grant of summary judgment in favor of Phillips Petroleum Company.

[1] We conclude that Phillips did not breach the AMI with respect to the notice requirement. The language

of Section 4 of the AMI does not encompass Phillip's acquisition of ARCO Alaska's stock because acquiring the stock in a corporation is not equivalent to acquiring the assets of the corporation, in this case the oil and gas leases and related interests set out in the AMI. See *U.S. Cellular Inv. Co. v. GTE Mobilnet, Inc.*, 281 F.3d 929, 935 (9th Cir.2002) (“[T]he transfer of stock is not the same thing as a transfer of the assets of that corporation.”). Phillips and Phillips Alaska are separate corporate entities and the district court appropriately declined to pierce the corporate veil. Nor does evaluation of the extrinsic evidence, when viewed in a light most favorable to Chevron, alter our conclusion. See *Day v. A&G Construction Co., Inc.*, 528 P.2d 440, 444 (Alaska 1974) (requiring courts to apply a “reasonable expectation standard” to determine the meaning of contractual terms.) No material issue of fact exists with respect to the contract claim and the district court did not err in granting summary judgment for Phillips.

***986 [2]** Chevron has not offered evidence sufficient to raise a triable issue of fact with respect to its claim that Phillips breached the covenant of good faith and fair dealing or that Phillips violated any fiduciary duties owed to Chevron. Although Chevron asserts that Phillips should have structured its acquisition of ARCO Alaska to allow Chevron to exercise its rights under the AMI agreement, the FTC, not Phillips, dictated the structure of Phillips acquisition and the FTC restricted ARCO's ability to dispose of its assets on a piecemeal basis. Finally, Chevron's purported partnership/fiduciary duty claim fails because of the express language of the Joint Bidding Agreement.

AFFIRMED.

All Citations

73 Fed.Appx. 984, 2003 WL 22006008, 167 Oil & Gas Rep. 547

Footnotes

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by [Ninth Circuit Rule 36-3](#).