

# EXHIBIT 4

1 UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF NEW YORK

3 ESTHER KIOBEL, individually and on behalf : CIVIL  
of her late husband, DR BARINEM KIOBEL, : ACTION  
4 BISHOP AUGUSTINE NUMENE : NO. 02CV  
JOHN-MILLER, DORNUBARI ANSLEM : 7618  
5 JOHN-MILLER, CHARLES BARIDORN WIWA, :  
ISRAEL PYAKENE NWIDOR, :  
6 KENDRICKS DORLE NWIKPO, ANTHONY B, :  
KOTE-WITAH, VICTOR B WIFA, DUMLE J. :  
7 KUNENU, BENSON MAGNUS IKARI, :  
LEGBARA TONY IDIGMA, PIUS NWINEE, :  
8 SIMEON DEDDOA, KPOBARI TUSIMA individually :  
and on behalf of his late father :  
9 CLEMENT TUSIMA, and individually on behalf :  
Of all others similarly situated: :  
Plaintiffs :  
10 Vs. :  
ROYAL DUTCH PETROLEUM COMPANY; :  
11 SHELL TRANSPORT AND TRADING :  
COMPANY, p.l.c. :  
12 Defendants :  
:

13 KEN WIWA, individually and as : 96 Civ.  
Executor of the Estate of his : 8386 (KMW)  
14 deceased father KEN SARO-WIWA, and :  
OWENS WIWA, and BLESSING KPUINEN :  
15 Individually and as the Administratrix :  
Of the Estate of her husband, :  
16 JOHN KPUINEN, and JANE DOE :  
Plaintiffs :  
17 :  
vs. :  
18 ROYAL DUTCH PETROLEUM COMPANY and :  
SHELL TRANSPORT AND TRADING COMPANY :  
19 P.l.c. :  
Defendants :  
20 KEN WIWA, individually and as Executor : 01 Civ.  
Of the Estate of his deceased father : 1909 (KMW)  
21 KEN SARO-WIWA, AND OWENS WIWA :  
And BLESSING KPUINEN, individually :  
22 And as the Administratrix of the :  
Estate of her husband, JOHN KPUINEN, :  
23 and JANE DOE, :  
vs. :  
24 BRIAN ANDERSON, :  
Defendant :

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DEPOSITION OF EEBU JACKSON NWIYON

Monday, 24th May May 2004

AT: 9.08 am

Taken at:

Benin Marina Hotel  
Republique Du Benin  
Afrique De L'Ouest  
Boulevard De La Marina  
BP 1901, Cotonou  
Benin

1 A. That if you were under attack this,  
2 say this hotel, you are taught how to surround the  
3 hotel and how to move in.

4 Q. So if MOPOL wanted to attack the hotel you  
5 are taught how to surround the hotel?

6 MR MILLSON: Objection to the form of the  
7 question.

8 MR D'AVINO: I was trying to clarify the  
9 question.

10 MR MILLSON: If it is not a question then I  
11 am not sure what it is.

12 MR D'AVINO: What was the first MOPOL unit  
13 you were assigned to?

14 A. Mobile unit, I don't understand because in  
15 every squadron I was in MOPOL 19, Port Harcourt, and  
16 every squadron has four units.

17 Q. So you were in MOPOL 19 in Port Harcourt?

18 A. Yes, sir.

19 Q. Where were you stationed?

20 A. I was stationed at GRA, Base 2, Circular  
21 Road.

22 Q. What duties did that squadron do, that unit  
23 have?

24 MR MILLSON: Objection to the form of the  
25 question.

1 Q. Can you tell me what you talked about?

2 MR MILLSON: Object to the form of the  
3 question.

4 A. My duty when I got to my barracks almost  
5 coincided when the Ogoni and Andoni crisis was on and  
6 I talked with some, two persons, two of my MOPOL  
7 colleagues who told me how they have been to Andoni and  
8 Kemba, went to Andoni to fight Ogonis.

9 MR MILLSON: Could you read that answer  
10 back.

11 (The answer was read back by the Court Reporter).

12 MR D'AVINO: What did they tell you about  
13 their experience in Andoni?

14 MR MILLSON: Object to the form of the  
15 question.

16 A. I was told how they were being fed and what  
17 money and kind of how they were being taken care of,  
18 generally being given money and food. Also talked  
19 about their mode of transportation to Andoni. Now  
20 they use, said they boarded a Mordant Marine, it is a  
21 transport company, sea transport company in Port  
22 Harcourt and this is often used by Shell. I mean Shell  
23 use or hire Mordant Marine, Sea Lion and Oil, these  
24 three transport companies. Now these, this same boat  
25 also bring them food and helicopters, Shell helicopters

1 also bring them food, that's what I was told by these  
2 two colleagues.

3 MR MILLSON: Excuse me, ask you can you read  
4 that answer back?

5 (The question was read back by the Court Reporter)

6 A. I am saying my interaction with my two mobile  
7 or MOPOL colleagues.

8 MR D'AVINO: You say that they told you  
9 about being paid, what did they tell you about being  
10 paid?

11 A. They told me they were given money. They  
12 were given money by Shell and food by Shell, because  
13 when normally you go for a Government operation, I mean  
14 not for company, not when the Company's paying you to  
15 either secure the property, the difference, what  
16 distinguish is how you are being taken care of, and  
17 I must say that in cases like this Shell do very good,  
18 feed you very well and give you good money, at least  
19 that you will be happy with.

20 MR MILLSON: I move to strike everything  
21 that is not responsive to the question.

22 MR D'AVINO: Can you please describe the  
23 food -- can you please describe how you were treated,  
24 how you were treated when you were in MOPOL when you  
25 went on Shell operation.

1 MR MILLSON: Object to the form of the  
2 question?

3 A. I remember when I was personally involved in  
4 the operation in these assignments to Andoni, then  
5 I would say it was like a mistake on them to have even  
6 involved me because as an indigene of Ogoni I was not  
7 supposed to be involved in that operation, but it was a  
8 mistake, I was drafted into. Now we were told that we  
9 move into a Shell location in the swamp and we got to  
10 Shell IA to board a Shell helicopter.

11 MR D'AVINO: When you say that you were told  
12 you were going to a Shell swamp location, who was told,  
13 was it you personally?

14 MR MILLSON: Object to the form of the  
15 question.

16 A. No, when in cases like that they assemble us  
17 and tell us our mission, so we were in that group of  
18 eight, there were eight of us I can remember.

19 MR D'AVINO: Where were you called to  
20 assemble?

21 A. We were called to assemble at our barracks.  
22 I was called from my original duty point and just like  
23 it used to happen when there is an emergency situation  
24 that hands are needed, more hands are needed, like a  
25 kind of reinforcement. So we were called and I was

1 called from my duty point and I met with some others  
2 who were there at the quarter guard, at the barracks.

3 Q. Where?

4 A. Quarter guard, it is an office. So we  
5 boarded our own truck, went to Shell IA.

6 Q. What is Shell IA?

7 A. Shell Industrial Area, that is where they  
8 have their helipad.

9 Q. Were you told when you gathered in the  
10 barracks that you were going to Shell IA?

11 MR MILLSON: Object to the form of the  
12 question.

13 A. Yes, they said we were going to secure Shell  
14 facility in the swamp, Shell facility, so they asked to  
15 give us one of those other ones that have been in the  
16 swamp before.

17 MR MILLSON: Mr D'Avino, if we could have  
18 some non leading questions it would be good.

19 MR D'AVINO: What happened, what happened  
20 when you arrived at the Shell IA?

21 MR MILLSON: Object to the form of the  
22 question.

23 A. We got there and when we got at the point  
24 where we were supposed to board the helicopter, for  
25 about 15, 20 minutes, a high inspector left us there.



1 When Shell staff, a Shell staff came back after about  
2 15 or 20 minutes and when they came back I noticed he  
3 was carrying a bulky envelope. I didn't get to know  
4 what really was in the envelope, but we got to, the way  
5 I got to know what was in the envelope is when I got to  
6 Andoni Primary School, Jagajaja, when we landed and we  
7 were instructed to stay by ourselves, not leave the  
8 camp there until further instruction. Thereafter we  
9 were given, I was given personally 2000 Naira for  
10 allowance, so my thoughts, I was given 2000 Naira from  
11 the same envelope I saw my inspector coming, come back  
12 with that time at the IA with this Shell staff.

13 MR MILLSON: Can you read that answer back,  
14 please?

15 (The question was read back by the Court Reporter).

16 MR D'AVINO: That day did you board a truck  
17 at the MOPOL barracks that drove to the Shell IA?

18 MR MILLSON: I object to the form of the  
19 question, I really have to have some non leading  
20 questions please?

21 A. Yes, I did.

22 MR D'AVINO: What happened when you arrived  
23 at the Shell gate at the IA?

24 A. At the Shell gate?

25 Q. Yes?

1 A. Yes, we were armed a little bit more than --

2 we were armed. We were armed.

3 Q. Do you recall what sort of arms you were

4 carrying?

5 A. We were carrying SMG, we were carrying LAR,

6 Light Assault Rifle. We were carrying grenade and

7 some, about three or four boxes of extra ammunition,

8 three boxes of ammunition.

9 Q. Now you said your inspector went away, who

10 was your inspector?

11 A. I have forgotten his first name but I

12 remember Obi, I remember Obi O-B-I.

13 Q. Where were you when your inspector went way?

14 MR MILLSON: Object to the form of the

15 question.

16 A. We were at the point within the vicinity of

17 that helipad, it is a big building that is like they

18 pull the helicopters inside, it is built like a

19 warehouse, so we stood, were kept somewhere there and

20 the inspector left.

21 Q. When the inspector left were there any people

22 around beside your group of eight?

23 MR MILLSON: Object to the form of the

24 question.

25 A. There was some people.

1 a helicopter?

2 A. Yes.

3 MR MILLSON: Object to the form of the  
4 question.

5 MR D'AVINO: Where did you get on the  
6 helicopter?

7 A. At Shell IA, Shell helipad area.

8 Q. Was it a Shell helicopter?

9 MR MILLSON: Object to the form of the  
10 question.

11 A. Yes, it was Shell helicopter because this  
12 Shell emblem that you can recognise anywhere in the  
13 world was on the helicopter. So I took it to be a  
14 Shell helicopter.

15 MR D'AVINO: When you boarded the Shell  
16 helicopter with your colleagues did you bring your  
17 weapons?

18 A. Yes.

19 MR MILLSON: Object to the form of the  
20 question.

21 MR D'AVINO: What else did you bring?

22 A. All the weapons I mentioned before, our  
23 rifles, extra box of ammunition that included the  
24 grenades, the grenade that we carried.

25 Q. Do you recall who was the helicopter piloted

1 ready to go on patrol.

2 MR MILLSON: Hang on one second.

3 MR D'AVINO: What did you do then?

4 A. So I saw, I saw because at the camp at the  
5 Primary School where we landed there were some soldiers  
6 and Navy on the ground. I got talking with one of the  
7 soldiers.

8 MR MILLSON: Can you read that answer back  
9 for me.

10 (The answer was read back by the Court Reporter).

11 MR D'AVINO: What did you say, if you can  
12 recall, what did you say to the soldier?

13 A. I tried to ask him what it has been like, you  
14 know, if he has been there for long, he has been  
15 there. And he told me, you know, that we go out on, in  
16 groups. When they go out it is always at night.  
17 They go to attack some villages that are close to the  
18 river, the river where, along the river because the  
19 river separates Ogoni with Andoni. So they go out in  
20 the night to attack those villages close to the  
21 riverside.

22 Q. Did he indicate where the villages were that  
23 were attacked?

24 MR MILLSON: Object to the form of the  
25 question.

1 A. Yes, from his description he made mention of  
2 Kaa, K-A-A, he made mention of Kaa.

3 THE VIDEOGRAPHER: Off the record due to  
4 power failure.

5 (Short Adjournment)

6 THE VIDEOGRAPHER: Back on the record at  
7 10.10.

8 MR D'AVINO: What did the soldier tell you  
9 about attacks that he had been on?

10 MR MILLSON: Object to the form of the  
11 question.

12 A. The soldier said when they go out they attack  
13 villages in Ogoni.

14 MR D'AVINO: Did the soldier tell you how  
15 long they had been there?

16 MR MILLSON: Object to the form of the  
17 question.

18 A. He told me he has been there, either he has  
19 been there for three weeks before I came.

20 Q. What else did the soldier tell you?

21 A. I can't remember. I can't remember all.

22 MR D'AVINO: Did you speak with anyone else  
23 that day?

24 MR MILLSON: Object to the form of the  
25 question.

1 A. After the soldier I spoke with the Navy, the  
2 Navy officer, Navy personnel.

3 MR D'AVINO: What did the Navy officer say?

4 A. The Navy officer also told me, what he told  
5 me was not was not far from, it was not different from  
6 what the soldier told me, how they go out to attack and  
7 they go out to attack villages in Ogoni in the night  
8 and that, and he gave me this picture of when they had  
9 been very stubborn as to stop Shell operation in  
10 Ogoniland and now we are, like, looking for trouble  
11 again from, looking for trouble fighting Andonis.  
12 That is the thing, he didn't know I was from Ogoni, so  
13 he was like being free to talk. So Ogoni have to be  
14 taught a lesson and how can they do that, small Ogoni  
15 to stop Shell from operation, from operating their  
16 land. He gave me that kind of, he told me all this.  
17 (The answer was read back by the Court Reporter).

18 MR D'AVINO: Is there anything else that you  
19 can recall that the Navy officer said?

20 A. No -- yes, I think I also asked how they got  
21 there and how they got there is when he told me there  
22 was some boats he came with.

23 Q. He told you that he came in a boat?

24 A. He came in a boat.

25 Q. Did he come, did he tell you whether he came

1 Force did you ever -- strike that. Were you ever on an  
2 operation in Imingri?

3 MR MILLSON: Object to the form of the  
4 question.

5 A. Yes, I recall my commander took me and about  
6 six other persons there. Then the commander of the  
7 Internal Security Task Force, then Sergeant Major Paul  
8 Okuntimo, took us to Imingri and told us, told us  
9 before we got to bring Imingri, before we left that on  
10 our way if we meet with any resistance, meet with any  
11 troublemakers we get all of them down, leave nobody,  
12 leave nobody untouched. Then at Imingri he told us  
13 first the instruction, the order he was giving us  
14 before we proceeded. We got to Imingri, got to the  
15 Shell flowstation, we stopped at the flowstation, moved  
16 round, checked, there was nothing, so we proceeded on  
17 to the waterfront.

18 MR D'AVINO: Why did you go to a Shell  
19 flowstation in Imingri, do you know?

20 MR MILLSON: Object to the form of the  
21 question.

22 A. I didn't know why we were going there,  
23 I didn't know.

24 Q. When Paul Okuntimo said leave no one  
25 untouched what did he mean?

1 MR MILLSON: Object to the form of the  
2 question.

3 A. He mean shoot, kill.

4 MR D'AVINO: Was an operation, was there any  
5 -- did anyone tell you that there was a disturbance at  
6 the flowstation.

7 MR MILLSON: Object to the form of the  
8 question.

9 A. No one, not even him, he did not say.

10 MR D'AVINO: Did you ever see Paul Okuntimo  
11 at the Shell IA?

12 MR MILLSON: Object to the form of the  
13 question.

14 A. If I see Okuntimo at Shell IA?

15 MR D'AVINO: Yes.

16 A. No, except on one occasion when there was a  
17 demonstration.

18 Q. What did you see?

19 A. What I saw was a crowd of people, women and  
20 men. They were sitting down at the entrance of the  
21 Shell IA, a little bit far from the gate, the gate of  
22 the Shell IA. I saw some of the men carried down  
23 placards, I saw Okuntimo there.

24 Q. Okay. What did you see?

25 A. What I saw was, what I saw now that remains



1 MR DI CAPRIO: Had you been on other patrols  
2 not involving any companies prior to this time?

3 A. Yes.

4 Q. And those, on those patrols were you ever  
5 paid any money?

6 A. Yes.

7 Q. How much, do you recall how much you were  
8 paid?

9 A. If varies, it depends on how long you are  
10 going to stay, how long we stay. Some pay maybe after  
11 a week you have been there, somebody pay you daily,  
12 somebody pay you monthly.

13 Q. Now you say you were on other patrols on  
14 behalf of Shell; is that correct?

15 MR MILLSON: Object to the form of the  
16 question.

17 A. Yes.

18 MR DI CAPRIO: Let me withdraw that  
19 question. Were you on other patrols involving Shell  
20 facilities?

21 A. Yes.

22 Q. Do you recall whether or not you were paid on  
23 those patrols?

24 MR MILLSON: Object to the form of the  
25 question.

1 MR MILLSON: Object to the form of the  
2 question.

3 A. Called what?

4 MR DI CAPRIO: Withdraw the question. Do  
5 you know where Kidney Island is?

6 A. Yes.

7 Q. Where is it please?

8 A. It is in Port Harcourt, by the riverside.

9 Q. Have you ever been to Kidney Island?

10 A. Yes.

11 Q. Do you recall when?

12 A. 94 and 95.

13 Q. On how many occasions in 1994 were you at  
14 Kidney Island?

15 A. Twice.

16 Q. Were you a member -- let me withdraw that.  
17 Which unit of the Nigeria police or military were you a  
18 member of that?

19 A. I was in the Mobile Police Force.

20 Q. Do you recall approximately when the first  
21 time in 1994, the month that you went to Kidney Island?

22 A. I can't remember exactly, exactly the month.

23 Q. Were you with anybody when you went to Kidney  
24 Island the first time?

25 A. Yes.

1 duty.

2 Q. Guard duty of what?

3 A. Got to guard government facility there.

4 Q. Did you guard any other facilities while you  
5 were at Sagbama?

6 A. I personally I didn't guard any other  
7 facilities, but there is a bank that my colleagues went  
8 to.

9 Q. Were you in Sagbama in 1992, right?

10 A. Yes, I was.

11 Q. And you guarded a Shell facility in 1992,  
12 right?

13 A. 1992?

14 Q. Yes?

15 A. There is nothing like Shell in Sagbama.

16 Q. When you told Mr Di Caprio this morning when  
17 you guarded a Shell facility in 1992, what did you have  
18 in mind?

19 A. 1992?

20 Q. Right?

21 A. I didn't say that.

22 Q. You didn't say this morning?

23 A. 92, I have not even been guarded Shell, come  
24 again.

25 Q. Did you guard any Shell facilities in 1992?

1 Shell when you went to T40?

2 MR DI CAPRIO: Objection to the form of the  
3 question.

4 A. Get food, yes, we were paid.

5 MR MILLSON: Shell paid you money for going  
6 to, paid you a field allowance for being at T40,  
7 correct?

8 A. Yes.

9 Q. And they gave you food as well?

10 A. Yes.

11 Q. To guard their property, right?

12 A. Yes.

13 Q. When you went to ELF to guard their property  
14 did they give you money as well?

15 A. Yes.

16 Q. When you did the Oil Servicing Company did  
17 they pay you money?

18 A. Yes.

19 Q. Both ELF and the Oil Servicing Company paid  
20 you a field allowance?

21 A. Yes, they pay.

22 Q. When your colleagues went to do guard duty at  
23 other companies did they get a field allowance from  
24 those other companies?

25 MR D'AVINO: Objection.

1 Q. So you went to deal with the riots at the  
2 University of Port Harcourt as part of your MOPOL  
3 responsibilities?

4 MR D'AVINO: Objection.

5 A. Mobile, you go to disperse riots.

6 MR MILLSON: So you went to disperse a riot?

7 A. It is part of police and Mobile job.

8 Q. You did this when you were part of the  
9 Internal Security Task Force?

10 A. No.

11 Q. So you weren't part of the Internal Security  
12 Task Force?

13 A. I wasn't, no.

14 Q. Now the time you went to Imiringi with Major  
15 Okuntimo, what directions did he give you that you had  
16 to comply with when you got to Imiringi?

17 A. What he said was if we encounter any attack,  
18 any resistance we should not leave anybody, we should  
19 not leave anybody alive.

20 Q. And who told you to get in this landrover to  
21 go to Imiringi?

22 MR D'AVINO: Objection.

23 A. Who asked me to go.

24 MR MILLSON: Who directed you to go to  
25 Imiringi.

1 MR D'AVINO: Objection.

2 A. I am trying to think between him and our unit  
3 commander, our unit commander in Internal Security Task  
4 Force, I am trying to remember who. Between him and  
5 Paul Okuntimo he has overriding influence, his own rank  
6 and position superceded our commander. He did the  
7 selection himself.

8 MR MILLSON: He selected the people and told  
9 you to get in the landrover?

10 A. Yes, if we see anything, anybody, any  
11 resistance or attack we should not leave any of the  
12 persons alive.

13 MR MILLSON: Major Okuntimo told you this  
14 before you got into the vehicle?

15 A. Told us this before we got into the vehicle  
16 and in the vehicle.

17 Q. So in the vehicle he repeated himself?

18 A. Yes.

19 Q. So you then, someone drove you to Imiringi,  
20 correct?

21 A. Yes.

22 Q. And you got out of the vehicle?

23 A. Yes.

24 Q. Where did you get out first?

25 A. We got out at the, there is a flowstation

1 within that Imiringi, within that Imiringi area. We  
2 went down, checked on the flowstation, saw the  
3 Christmas tree intact there.

4 Q. So the Christmas tree was intact?

5 A. Yes, it was intact, they were intact.

6 Q. And there was oil being pumped out of the  
7 ground?

8 A. I don't know.

9 MR D'AVINO: Objection.

10 MR MILLSON: Was there anyone from Shell  
11 there?

12 A. Yes, there was a Shell staff, Shell staff  
13 took us to waterfront.

14 Q. The Shell staff took you to the waterfront?

15 A. Yes.

16 Q. Did you do anything at the Shell flowstation?

17 A. We did not do anything.

18 Q. The Shell, what did you do at the waterfront?

19 A. I didn't know what, we didn't do anything at  
20 the flowstation.

21 Q. Did you do anything at the waterfront?

22 A. Excuse me, we did not do anything at the  
23 waterfront I can remember, except giving him security  
24 coverage, protection.

25 Q. Giving who?

1 A. Okuntimo. At the flowstation before we get  
2 to the, we only checked round the Christmas tree and  
3 left there for the waterfront where he and the Shell  
4 staff got talking quite extensively, after which we  
5 went back. On our way back he gave us money in the  
6 vehicle.

7 Q. Someone gave you money in the vehicle?

8 A. Paul Okuntimo gave us money in the vehicle.

9 Q. How much did he give you?

10 A. I can't remember how much, it was new notes  
11 of money.

12 Q. New notes?

13 A. Yes.

14 Q. 20s?

15 A. I don't know, I only know that it was mint,  
16 new notes.

17 MR MILLSON: You all got money?

18 A. Yes, all of us in the vehicle.

19 Q. All of you in the vehicle got money?

20 A. Yes.

21 Q. Where on the waterfront were you?

22 A. Where in the waterfront?

23 Q. Yes.

24 A. I don't understand, at the waterfront.

25 Q. Right, what is at the waterfront where you