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Tuesday September 18 7:42 AM ET

Judge Won't Dismiss Slave Labor Case

By Dan Whitcomb

LOS ANGELES (Reuters) - A judge's refusal to throw out a lawsuit against a Japanese company by a man forced into slave labor during World War Two marked a "historic" victory in such cases, his lawyers said on Monday.

Attorneys for the 79-year-old plaintiff Jae Won Jeong said the decision by Los Angeles Superior Court Judge Peter Lichtman on Friday means the case could become the first of its kind to go to trial and may spur settlements by Japanese companies.

Jeong, who is now a U.S. citizen, was a Korean student attending Hosei University in Tokyo during World War Two when he was imprisoned for refusing to join the military.

"The wall of defenses put up by the Japanese companies has led to a situation where litigation has been stymied until today," plaintiffs lawyer Barry Fisher said at a press conference. "This decision cracks that wall."

"This is a historic decision by the Los Angeles Superior Court," he said.

But Douglas Mirell, an attorney for Taiheiyo Cement Corp., said the firm likely would appeal the ruling.

"All that has happened in this case is that court has said that case is not flawed on its face," Mirell said. "That is not a very exacting measure and its significance is being substantially overplayed (by the plaintiffs)."

According to his lawsuit, Jeong was sent to a prison camp in Korea operated "by and for the benefit of the Japanese Onoda Cement Manufacturing Company" and forced to perform hard labor for the duration of the war.

Through a series of mergers in the 1990s, Onoda became part of the Taiheiyo Cement Corp. . The Tokyo-based company had sales of some \$2.9 billion in the past fiscal year and owns California Portland Cement, based near Los Angeles.

Jeong, who sued Taiheiyo and its U.S. units for unjust enrichment and unlawful, unfair and fraudulent business practices, seeks to have the lawsuit certified a class action to represent others who were subjected to slave labor.

Taiheiyo urged Lichtman to dismiss the lawsuit on grounds that earlier governmental accords dealt with slave labor claims and that the case properly belonged in federal court.

But Lichtman disagreed, writing in his 18-page ruling that "no prior decision of any political branch has approved of the defendants' actions nor has any treaty negotiated and ratified by the United States addressed the claims of the plaintiff."

Jeong's lawsuit is one of three wartime slave labor cases proceeding in Los Angeles Superior Court. Some two dozen cases are proceeding in federal court in California.

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Judge OKs Ex-Slave Laborer's Lawsuit

Court: The ruling rejects a Japanese firm's motion to dismiss the case of a Korean American who was forced to work at a quarry in World War II.

By K. CONNIE KANG
TIMES STAFF WRITER

September 18 2001

Koreatown resident Jae-Won Jeong, 79, was studying economics at a Tokyo university in 1943 when he was forcibly taken to a slave labor camp for refusing to be drafted into the Japanese imperial army.

Because he was a Korean national, Jeong was not obligated to serve in the Japanese military, he said. But his resistance won him hard labor breaking limestone by hand at a quarry for Japan's Onoda Cement Manufacturing Co. in the northeastern tip of the Korean peninsula. Korea was a Japanese colony until the war ended in 1945.

Two years ago Jeong, now a U.S. citizen, sued the company and its successor entities and affiliates in Japan and in the United States under a 1999 state law that says wartime European and Asian forced-labor victims can bring cases in California until 2010. On Monday, Jeong learned that Los Angeles Superior Court Judge Peter D. Lichtman had rejected the company's motion to dismiss his lawsuit. It was the first procedural victory for a plaintiff in any U.S. case seeking redress from a Japanese company for forced labor.

"It's ironic that we have to seek justice for crimes committed against humanity by Japan in an American court," said Jeong, a retired high school teacher. "Most of the men I worked with in

that slave camp have long since passed on from this world. But, by pursuing this case, I want to tell the world what really happened and that such atrocities must never be allowed to be repeated again."

Jeong's attorney, Barry A. Fischer, called the ruling "the first breakthrough" in the "first wall of defenses" of Japanese companies against the suits by victims of forced labor. He said dozens of lawsuits against Japanese firms that benefited from forced labor before and during World War II are pending in the United States and Japan.

Attorney Douglas Mirell, one of the lawyers representing the Japanese firms, said his clients believe the ruling is "erroneous," and he is considering asking an appeals court to reverse Lichtman's decision. He said the ruling goes against four federal court decisions that have dismissed similar claims.

In his 18-page decision, dated Friday but received by the lawyers Saturday, Lichtman rejected the defendants' argument that the 1951 peace treaty between the United States and Japan preempted victims' claims. The jurist noted that South and North Korea, as well as China and Taiwan, were not signatories to that treaty.

Lichtman also rejected the defendants' contention that the 1965 Japan-Korea agreement settling Japan's 35-year colonial exploitation of Korea barred all claims of South Korea and its nationals.

He held that in cases where there are differing interpretations of whether the treaty covered individuals like Jeong, the court can apply California law.

Unlike European Holocaust cases, the suits against Japanese companies, which used slave labor throughout Asia before and during World War II, have met with U.S. government opposition. The United States has consistently sided with the Japanese legal position.

Onoda, a major conglomerate, operated in many countries, including Manchuria, Korea and others occupied by Japan. Under a previous ruling by Lichtman, the company has agreed to turn over 4,000 to 5,000 documents, lawyers said.

Under California law, a World War II forced-labor victim is "any person who was a member of the civilian population conquered by the Nazi regime, its allies or sympathizers . . . forced to perform labor without pay for any period of time between 1929 and 1945, by the Nazi regime, its allies and sympathizers, or enterprises transacting business in any of these areas under the control of the Nazi regime or its allies and sympathizers."

Jeong's lawsuit seeks compensation for his labor and injuries, as well as an apology and a trust to benefit former forced laborers.

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