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August 4, 2017

VIA EMAIL

Beatriz Balbin
Chief, Special Procedures Branch, OHCHR
Michel Forst
Special Rapporteur on the situation of
human rights defenders
Victoria Lucia Tauli-Corpuz
Special Rapporteur on the rights of
indigenous peoples
registry@ohchr.org

**Re: Joint Communication from Special Procedures, dated June 21, 2017;
Reference: AL OTH 10/2017**

Dear Ms. Balbin, Mr. Forst and Ms. Lucia Tauli-Corpuz:

We write on behalf of our client Chevron Corporation ("Chevron") in response to the joint communication from Michel Forst, Special Rapporteur on the Situation of Human Rights Defenders, and Victoria Lucia Tauli-Corpuz, Special Rapporteur on the Rights of Indigenous Peoples, Ref/AL/OTH 10/2017, dated June 21, 2017, addressed to Mr. John S. Watson, Mr. R. Hewitt Pate, Mr. Kent Robertson, and Ms. Linsi Crain, requesting more information about the judgment against Chevron in Ecuador, and further to our letter dated July 6, 2017 indicating that Chevron would make a complete submission by August 4, 2017.

Please find enclosed the submission submitted by King & Spalding on behalf of Chevron. Do not hesitate to contact us if the Special Rapporteurs desire further information regarding any aspect of Chevron's submission. Chevron reiterates its willingness to meet in person with the Special Rapporteurs in the event they would find it useful to do so (and especially if the Special Rapporteurs contemplate any further steps in relation to this matter).

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We commend the Special Rapporteurs on the important work that they do in defending the vital work of human rights defenders and the rights of indigenous peoples. We would welcome and appreciate receiving guidance in the event the Special Rapporteurs contemplate any further steps regarding this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "R. Doak Bishop". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping tail.

R. Doak Bishop
Partner

REPLY TO OHCHR COMMUNICATION DATED JUNE 21, 2017,
REF AL OTH 10/2017

Michel Forst
Special Rapporteur on the situation of human rights defenders

Victoria Lucia Tauli-Corpuz
Special Rapporteur on the rights of indigenous peoples

Beatriz Balbin
Special Procedures Branch
Office of the High Commissioner for Human Rights

On behalf of Individuals Addressed in the Communication from the OHCHR:

Mr. John Watson
Mr. R. Hewitt Pate
Mr. Kent Robertson
Ms. Linsi Crain

Submitted by Legal Representatives of the Named Addressees:

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August 4, 2017

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I. INTRODUCTION

1. King & Spalding, as attorneys for the named addressees, expresses its appreciation to Special Rapporteurs Michel Forst and Victoria Lucia Tauli-Corpuz for the opportunity to address the allegations listed in their communication of June 21, 2017 (the “OHCHR Letter”). King & Spalding makes this submission on behalf of Chevron Corporation (“Chevron”) in response to the OHCHR Letter because it represents and advises Chevron in an arbitration against Ecuador under the U.S.-Ecuador Bilateral Investment Treaty (the “BIT Arbitration”) and in related litigation, all of which arise from the judgment procured through corruption and fraud that the Lago Agrio Court in Ecuador rendered against Chevron in favor of certain Ecuadorian plaintiffs (the “Lago Agrio Plaintiffs”) in 2011 (the “Lago Agrio Judgment” or the “Judgment”).

2. We have reviewed the OHCHR Letter and respond by presenting a detailed overview of the proceedings related to the Lago Agrio Judgment, so that the Special Rapporteurs may understand why numerous courts, tribunals and justice officials in the United States, Argentina, Brazil, Gibraltar, and elsewhere have concluded that the Lago Agrio Judgment, far from vindicating human rights, is in fact a product of corruption and fraud.

3. By way of general background, the litigation that eventually gave rise to the Lago Agrio Judgment (the “Lago Agrio Litigation”) arose out of Texaco Petroleum Company’s (“TexPet’s”) operations in Ecuador that took place over twenty-five years ago. These operations concluded in 1992, followed by the execution of (i) a Settlement Agreement in 1995, in which Ecuador and Petroecuador (the State-owned oil company of Ecuador) settled all environmental claims arising from Petroecuador’s and TexPet’s joint operations in the Amazon Oriente and; (ii) after TexPet spent nearly US\$ 40 million to complete its remediation obligations, a Release Agreement (in 1998), which released TexPet and its affiliates from all diffuse environmental claims (i.e., claims for alleged harm suffered by any affected communities). However, even though TexPet remediated its share of the former joint operations area and was released from environmental liability, lead counsel for the Lago Agrio Plaintiffs embarked on a litigation strategy that included corrupting judges and court-appointed experts, paying bribes, falsifying evidence and forging signatures, all in order to procure a US\$ 18 billion judgment (that an

appellate Ecuadorian court later reduced to a still-staggering and unsubstantiated amount of US\$ 9.5 billion) against Chevron, which, by that time, had acquired TexPet's parent company, Texaco, Inc.

4. Subsequent litigation has made clear that counsel for the Lago Agrio Plaintiffs procured the Lago Agrio Judgment through fraud and corruption. Among the judicial findings of fraud by numerous courts in the United States and elsewhere, the most detailed set of findings was issued by the U.S. District Court for the Southern District of New York in March 2014. Following a racketeering and fraud trial that lasted seven weeks, the District Court held in a detailed 500-page opinion that the Ecuadorian Judge who had presided over the Lago Agrio Litigation at the time the Lago Agrio Judgment was issued, had agreed to rule in favor of the Lago Agrio Plaintiffs in exchange for a bribe of US\$ 500,000, and, among numerous other acts of corruption in the proceedings, had even allowed the Lago Agrio Plaintiffs' representatives to draft the Judgment itself.¹

5. The named Lago Agrio Plaintiffs' representatives and their lawyer appealed, raising a variety of legal issues. Notably, even though they could have challenged the District Court's findings of fact as to the corruption and fraud in procuring the Judgment on appeal, the appellants declined to do so. Instead, the appellants raised only legal issues on appeal. In August 2016, a unanimous, three-judge panel of the U.S. Court of Appeals for the Second Circuit affirmed the trial court judgment in full in a 127-page opinion. The Second Circuit concluded:

The record in the present case reveals a parade of corrupt actions by the [Lago Agrio Plaintiffs'] legal team, including coercion, fraud and bribery, culminating in the promise to Judge Zambrano of \$500,000 from a judgment in favor of the [Lago Agrio Plaintiffs]. The [Ecuadorian] Appeal Division's Opinion provides no basis for an inference that the Lago Agrio Judgment was not the result of those corrupt acts, given its description of Judge Zambrano as having reached his decision without "assess[ing] discrete facts," without following "concrete, express legal rule[s]," and without "consider[ing]" the "economic opinions or parameters that appear from trial." And given that the [Ecuadorian] Appeal

¹ Exhibit 49, [REDACTED]

Division in its opinion (a) sets out no findings or damages assessments or calculations of its own, (b) approves Judge Zambrano's approach as "sound," "appropriate," and presenting "no[] reasons to modify what was ordered in the lower court's judgment," and (c) "ratifie[s]" Judge Zambrano's award "in all its parts," we conclude that Chevron's \$8.646 billion judgment debt, as approved by the Appeal Division, is clearly traceable to the [Lago Agrio Plaintiffs'] legal team's corrupt conduct.²

6. The full bench of the Second Circuit judges denied a motion to rehear the fraud case. Most recently, on June 19, 2017, the United States Supreme Court denied a certiorari petition seeking to review these fully and fairly litigated judgments of the District Court and the Court of Appeals. The thoroughly documented findings by the District Court that the Lago Agrio Plaintiffs' legal counsel secured the Lago Agrio Judgment through fraud and corruption, along with the Second Circuit's appellate opinion, constitute the U.S. legal system's pronouncement about the fraud, corruption and other misconduct that resulted in the issuance of the Lago Agrio Judgment.

7. Chevron also attempted to bring the issues of fraud and corruption that gave rise to the Lago Agrio Judgment to the attention of the Ecuadorian courts and authorities. However, to date, the Ecuadorian courts have declined to address these issues (Chevron's application to the Constitutional Court of Ecuador has been pending since 2013) and the authorities have not taken action to remedy the misconduct of those advancing the fraud. Instead, the Ecuadorian courts have deferred expressly to the courts of other jurisdictions to decide these issues, namely, the U.S. District Court and the U.S. Second Circuit Court of Appeals. The Ecuadorian Appeal Division held:

Mention is also made of fraud and corruption of plaintiffs, counsel and representatives, a matter to which this Division should not refer at all, except to let it be emphasized that the same accusations are pending before authorities of the United States of America due to a complaint that has been filed by the very defendant here, Chevron, under what is known as the RICO act, and this Division has no competence to rule on the conduct of counsel, experts or

² Exhibit 60, [REDACTED]

other officials or administrators and auxiliaries of justice, if that were the case.³

8. Many individuals and institutions that formerly had worked with lead counsel for the Lago Agrio Plaintiffs have since denounced counsel and their fraudulent activities (in particular, the activities of their lead counsel in the United States, Mr. [REDACTED]). Several individuals and litigation funders that had funded the Lago Agrio Plaintiffs and their legal counsel have since withdrawn their financial support. For example, [REDACTED] Chief Executive Officer of Burford Capital, which had provided US\$ 4 million in funding, observed that counsel for the Lago Agrio Plaintiffs had “engaged in a multi-month scheme to deceive and defraud in order to secure desperately needed funding . . . all the while concealing material information and misrepresenting critical facts in the fear that we would have walked away had we known the true state of affairs.”⁴ [REDACTED] who had invested US\$ 23 million to fund the Lago Agrio Plaintiffs and their legal counsel, also withdrew financial support in 2015, noting publicly, “I have concluded that representatives of the Lago Agrio plaintiffs, including [REDACTED] [their lead U.S. counsel], misled me about important facts. If I had known these facts, I would not have funded the litigation.”⁵

9. Legal counsel also have withdrawn their representation of the Lago Agrio Plaintiffs after the evidence of fraud and corruption came to light. The U.S. law firm [REDACTED] [REDACTED] withdrew its representation in 2014, and made a public statement expressing regret for formerly having represented the Lago Agrio Plaintiffs in the Ecuadorian and related U.S. litigations in light of the evidence of fraud and corruption that emerged. Additionally, several of

³ **Exhibit 16**, Judgment of the Provincial Court of Justice of Sucumbios, Proceeding No. 2011-0106, Jan. 3, 2012, at 10. The Second Circuit Court of Appeals in the United States took note of the Ecuadorian Appeal Division’s decision not to decide the issues of fraud and corruption on the part of the Lago Agrio Plaintiffs’ legal and other representatives that gave rise to the US\$ 18 billion Lago Agrio Judgment. The court observed, “In these circumstances, in which the district court has, on the claims of corruption, granted equitable in personam relief that does not invalidate the Ecuadorian judgment, and in which the Ecuadorian courts have expressly disclaimed jurisdiction to address the corruption claims and stated that the matter is preserved for adjudication in the United States courts, international comity is not an obstacle to the present District Court judgment.” **Exhibit 60**, Second Circuit Decision, at 116.

⁴ **Exhibit 32** [REDACTED] ¶ 14.

⁵ **Exhibit 66**, “Financial Backer of Fraudulent Ecuador Litigation Withdraws Support, Settles,” Press Release, CHEVRON.COM, Feb. 16, 2015, available at <https://www.chevron.com/stories/Financial-Backer-of-Fraudulent-Ecuador-Litigation-Withdraws-Support-Settles>.

the Lago Agrio Plaintiffs’ team of experts have since publicly and expressly repudiated the claims made on their behalf by the Lago Agrio Plaintiffs’ counsel.

10. In addition to several judges in the United States, several justice authorities in other jurisdictions, such as Argentina and Brazil, have recommended that the Lago Agrio Judgment not be recognized and enforced on the basis that doing so would run contrary to national public policy given the overwhelming evidence of corruption and fraud that gave rise to the Judgment. For example, the Public Prosecutor in Brazil commented:

It is precisely in regard to this latter aspect [of good morals, public order and national sovereignty] that we see the impossibility of validating this judgment, not just by the Brazilian courts, but – obiter dictum – in any other foreign jurisdiction, whether in a Democratic Country with the Rule of Law or not. This is because the documents that make up this procedure contain countless elements that indicate the great likelihood that the decision for which recognition is being sought was the result of a series of frauds.⁶

11. Given the evidence of corruption and fraud implicating lead counsel for the Lago Agrio Plaintiffs, various of their consultants, and certain experts appointed by the Ecuadorian court, as well as the Ecuadorian courts’ and authorities’ failure to take action, Chevron had to seek redress in other fora for the due process violations inflicted on the company in the Ecuadorian courts. To do so, Chevron has pursued the rights and avenues of legal relief available to it under the various national and international laws that permit Chevron to resist recognition and enforcement of the fraudulent Lago Agrio Judgment. In short, for the reasons detailed below, the “serious concern” expressed by the Special Rapporteurs concerning Chevron’s opposition to the Lago Agrio Judgment and the company’s resort to other judicial fora to secure relief from the Judgment, is misplaced. We are hopeful to provide in this submission the facts, evidence, and relevant court rulings to demonstrate that the Special Rapporteurs have been misinformed about the true facts of this case.

12. Chevron also reiterates its firm corporate policy of respect for human rights in general, and the rights of human rights defenders and indigenous peoples in particular, as well as the company’s support for corporate, industry, State, and appropriate inter-State initiatives –

⁶ **Exhibit 53**, *Aguinda v. Chevron Corp.* Opinion No. 2811/2015 regarding Contested Foreign Judgment No. 8.542 – Special Court, Federal Prosecution Service of the Attorney General of Brazil, May 11, 2015.

such as the UN Guiding Principles on Business and Human Rights – to safeguard those fundamental rights. However, the company’s responsibility to respect human rights, including the rights of human rights defenders and indigenous peoples, does not extend so far as to shield purported advocates of human rights who abuse their cause and violate their trust by bribing judicial officials, fabricating evidence, forging signatures, and otherwise perverting judicial proceedings through corruption and fraud. Indeed, six human rights experts and anti-corruption experts, including two former presidents of the Inter-American Court of Human Rights, a former president of the Inter-American Commission on Human Rights, and a former judge of the International Court of Justice, among other experts, made an amicus submission to the Second Circuit Court of Appeal in the RICO litigation in the United States opining that “[i]f the facts regarding attorney and judicial misconduct as found by the District Court are accurate in whole or in significant part, the conduct of the litigation in Ecuador cannot be excused in the name of human rights. On the contrary, it has done that cause a great disservice, and it should be remedied.”⁷

13. Respectfully, the corruptly procured Lago Agrio Judgment is unworthy of attention from the OHCHR and the Special Rapporteurs, except as an example of the need for honesty and probity in the presentation of human rights and environmental claims. Chevron has great respect for the work that the OHCHR and the Special Rapporteurs have undertaken and has reviewed the allegations raised in the OHCHR Letter seriously. Unfortunately, the allegations are not new, are factually incorrect, and ignore the various court proceedings that have ruled upon the true facts of the case. Counsel for the Lago Agrio Plaintiffs have raised such allegations against Chevron and its senior management in a number of jurisdictions, including before the International Criminal Court and the Inter-American Commission on Human Rights. Those actions have all been dismissed or not acted upon in favor of Chevron.

14. We present the following detailed summary to demonstrate that Chevron’s position with respect to the Lago Agrio Judgment is factually correct and has been documented and confirmed by a number of international and domestic courts and tribunals, as well as human rights defenders of great repute.

⁷ Exhibit 51, [REDACTED] 14-0826-cv(L) (2d Cir. Oct., 8, 2014), at 36.

15. Documentary evidence supports all facts stated in this submission. In order to assist the Special Rapporteurs, we have provided an index of the key documents that support this submission, which are referenced in this submission with exhibit numbers, and all of which are publicly available. If you determine that you need access to any documents, or would like further information on any specific point, please do not hesitate to ask, and we will provide you with the relevant documents or additional information accordingly.

16. Chevron remains at your disposal to address any questions that may arise after you have reviewed this submission. If preferable and helpful, Chevron's representatives will make themselves available to meet with you to discuss the true facts of this case.

II. THE FACTUAL BASIS GIVING RISE TO THE DISPUTE

A. TEXPET'S PARTICIPATION IN THE CONSORTIUM WITH PETROECUADOR

17. In 1964, Ecuador granted oil exploration and production rights in Ecuador's Oriente region to TexPet, a subsidiary of Texaco, Inc., and the Ecuadorian Gulf Oil Company (together, "the Consortium"). In 1976, Petroecuador, Ecuador's state-owned oil company, acquired a 62.5 percent interest in the Consortium. TexPet retained a 37.5 percent minority interest and served as the Consortium's operator until 1990, when a subsidiary of Petroecuador (Petroamazonas) became the operator. Even during the period when TexPet served as the operator, Petroecuador held the controlling interest and possessed the authority to make all key decisions regarding the Consortium's activities. Ecuador actively regulated the Consortium's activities, as its representatives admitted in the Lago Agrio Litigation.

18. The concession contract expired in 1992. At that time, Petroecuador acquired 100 percent ownership over all of the Consortium's facilities and continued exploration and production activities in the Oriente region as the sole owner and operator.⁸ Since 1992, Petroecuador has substantially expanded its exploration and production activities in the former joint operations area, which it continues to the present day.

⁸ **Exhibit 02**, Contract for Implementing of Environmental Remedial Work and Release from Obligations, Liability and Claims among the Republic of Ecuador, Petroecuador and Texaco Petroleum Co., May 4, 1995 (the "1995 Settlement Agreement") at 3.

B. ECUADOR AND TEXPET SETTLED ENVIRONMENTAL CLAIMS POTENTIALLY ARISING FROM THE CONSORTIUM'S OPERATIONS

19. From 1990 to 1992, TexPet, Ecuador, and Petroecuador wound up TexPet's operations in the Consortium. As part of this process, TexPet and Petroecuador commissioned two environmental audits. These audits determined that the Consortium's activities generally met applicable international industry standards at the time, but that certain remediation activities would need to be undertaken, as is typical after a lengthy period of oil production operations.

20. TexPet sought to perform a full remediation of all sites where the former Consortium had operated, and requested Petroecuador to pay for the share that corresponded to its majority (62.5 percent) ownership. Petroecuador refused to do so. Instead, Petroecuador, together with Ecuador, negotiated a settlement agreement with TexPet whereby TexPet assumed responsibility for specified environmental remediation projects that corresponded to its minority ownership interest in the Consortium. Ecuador and Petroecuador fully released TexPet from liability for any adverse environmental impact falling outside the scope of the specified remediation projects because the other sites corresponded to Petroecuador's interest in the Consortium ("the 1995 Settlement Agreement").⁹ All remediation that was not assigned to TexPet remained the responsibility of Petroecuador and Ecuador.

21. TexPet then performed the remediation activities it had agreed to undertake, including in the communities located in the Ecuadorian provinces of Orellana and Sucumbíos. The OHCHR Letter inquiries about "the measures adopted to ensure reparation to the affected communities of indigenous peoples and to redress the environmental harm provoked in the Ecuadorian provinces of Orellana and Sucumbíos."¹⁰ TexPet spent approximately US\$ 40 million over three years to fund environmental remediation projects, which a leading remediation firm performed, as well as social projects. TexPet also entered into settlement-and-release agreements with four municipalities located in the Ecuadorian Oriente pursuant to which these communities agreed not to pursue litigation against TexPet in exchange for certain monetary payments made by TexPet.¹¹ These agreements confirm that the settlements were entered into

⁹ **Exhibit 02**, 1995 Settlement Agreement, at 3.

¹⁰ Letter from the United Nations Human Rights Office of the High Commissioner, June 21, 2017 (the "OHCHR Letter"), at 4.

¹¹ **Exhibit 02**, 1995 Settlement Agreement, Annex A.

“after consulting with the entities and organizations representing the community of [their] inhabitant.” In fact, in 1997, one of the Lago Agrio Plaintiffs, Hugo Camacho, wrote a letter to TexPet “to present a testimony of real gratefulness to Texaco Petroleum Company for the environmental remediation work.” He went on to credit TexPet’s remediation with having “produced such a positive outcome for the local population that it has become a beautiful family visiting place.”

22. Between 1995 and 1998, multiple agencies of the Ecuadorian government, including the Ministry of the Environment and the Ministry of Energy and Mines, Petroecuador, and several community groups and environmental non-profit organizations, inspected and approved all of TexPet’s remediation work and certified that it had been completed in accordance with the 1995 Settlement Agreement. In 1998, Ecuador and Petroecuador executed a final agreement with TexPet certifying that TexPet had complied with all of its obligations under the 1995 Settlement Agreement and releasing TexPet, as well as its affiliates and principals, from all diffuse environmental claims.¹² Meanwhile, Ecuador’s and Petroecuador’s formal remediation program of the former joint operations area did not commence until June 2005 – well after the Lago Agrio lawsuit against Chevron was filed.

23. TexPet left Ecuador in 1998 after it had completed its remediation work. Petroecuador has continued to operate in the former joint operations area and reportedly has used environmentally unsafe practices and caused contamination. Petroecuador and the Ecuadorian Government, therefore, bear sole responsibility for any environmental liabilities caused by Petroecuador during the more than 25 years in which it has solely operated in the joint operations area—as well as for any outstanding environmental liabilities for the Consortium’s activities as agreed in the Settlement and Release Agreements.

24. Former Ecuadorian Environmental Ministers have confirmed that TexPet met its remediation obligations, while condemning Petroecuador for failing to meet its own remediation obligations. For example, on May 10, 2006, Manuel Muñoz, former director of Ecuador’s National Directorate of Environmental Protection Management (“DINAPA”) testified before Ecuador’s Congress that “Texaco completed the remediation of the pits that were their

¹² See **Exhibit 49**, RICO District Court Opinion.

responsibility; this was 33% of the total.” In contrast, the director noted that “Petroecuador, during more than three decades, had done absolutely nothing with regard to the pits that were the state-owned company’s responsibility to remediate.” Giovanni Rosania Schiavone, the Under-Secretary of Environmental Protection at the Ministry of Energy and Mines in Ecuador, has testified, under oath, about TexPet’s remediation as follows: “I insist the technical work and environmental work was done well, and we accepted that the . . . environmental problem in that area had been corrected.”

25. Thus, counsel for the Lago Agrio Plaintiffs could and should have addressed their environmental complaints to Petroecuador or the Ecuadorian government. However, counsel strategically chose not to do so because they had entered into a quid pro quo arrangement with Ecuadorian government officials. Under this arrangement, Ecuador agreed to support the Lago Agrio Plaintiffs’ lawsuit against Chevron in exchange for the Lago Agrio Plaintiffs’ agreement not to sue Ecuador or Petroecuador.¹³

26. In fact, the Lago Agrio Plaintiffs’ legal representatives took steps to halt or slow down Petroecuador’s remediation efforts. In June 2007, [REDACTED] the Lago Agrio Plaintiffs’ lead U.S. counsel, met with Petroecuador to “confront” it regarding the remediation. [REDACTED] stated goal at that meeting was “to get some sort of control over what [Petroecuador was] doing . . . maybe even stop them—from doing their cleanup operation” as it would decrease the damages they could claim. To make matters worse, the Lago Agrio Plaintiffs’ representatives were well-aware that asking Petroecuador to stop remediating was inconsistent with their position that the environmental state of the Oriente region was harming the health of the local population. [REDACTED] cautioned the Lago Agrio Plaintiffs’ team to “[b]e careful with written letters—informal and oral meetings are better[.] [W]e don’t want Texaco to use some letter to say we are obstructing remediation.”

¹³ Chevron also has evidence that the Lago Agrio Plaintiffs, with the support of high level Ecuadorian authorities from former President Rafael Correa’s administration, fabricated sham criminal proceedings against, *inter alia*, two of TexPet’s attorneys who had signed the Settlement and Release Agreements.

The Lago Agrio Plaintiffs’ legal representatives and Ecuadorian authorities knew that charges of fraud relating to the Settlement and Release Agreements were baseless, given that two different Prosecutors General on three different occasions requested dismissal of a preliminary investigation.

27. In sum, counsel for the Lago Agro Plaintiffs struck a deal in which they agreed not to sue Ecuador and Petroecuador, even though Ecuador and Petroecuador – not TexPet or Chevron – were the correct defendants in any litigation brought regarding environmental remediation, and, additionally, they colluded with the government of Ecuador and Petroecuador to fabricate a case against Chevron.

C. THE AGUINDA LITIGATION AND FORUM NON CONVENIENS DISMISSAL

28. In November 1993, U.S. lawyers for the Lago Agrio Plaintiffs filed a class action lawsuit against Texaco, Inc. in the United States District Court for the Southern District of New York entitled *Aguinda et al. v. Texaco, Inc.* (the “Aguinda Litigation”), claiming to represent 30,000 Oriente residents who allegedly had been harmed by the Consortium’s operations.¹⁴ In 2001, the District Court dismissed the Aguinda case on the basis of forum non conveniens, finding that the lawsuit should be brought in Ecuador.¹⁵ The Second Circuit Court of Appeals upheld the dismissal.¹⁶ As part of the dismissal, Texaco agreed to accept the jurisdiction of the Ecuadorian courts subject to Texaco’s reservation of its right to contest any such judgment under New York’s Recognition of Foreign Country Money Judgments Act. That act expressly allows for denial of recognition of any foreign judgment procured by means of fraud or in violation of due process of law.¹⁷ In other words, Texaco expressly reserved the right to oppose enforcement of any Ecuadorian Judgment – like the Lago Agrio Judgment – procured by fraud.¹⁸

¹⁴ **Exhibit 01**, Complaint, *Aguinda v. Texaco, Inc.*, 93 Civ 7527 (S.D.N.Y. Nov. 3, 1993).

¹⁵ **Exhibit 03**, *Aguinda v. Texaco, Inc.*, 142 F. Supp. 2d 534 (S.D.N.Y. 2001).

¹⁶ **Exhibit 04**, *Aguinda v. Texaco, Inc.*, 303 F.3d 470, 480 (2d Cir. 2002).

¹⁷ The New York Recognition of Foreign Country Money Judgments Act provides that “[a] foreign country money judgment is not conclusive if . . . the judgment was rendered under a system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law.” It further provides that “[a] foreign country judgment need not be recognized if . . . the judgment was obtained by fraud.” **Exhibit 76**, N.Y. C.P.L.R. 5304 (McKinney 2008).

¹⁸ “Texaco expressly conditioned its promises on a reservation of its rights under New York’s Recognition of Foreign Country Money Judgments Act. Chevron has thus reserved its right to challenge any judgment issued in Lago Agrio on the grounds that the Ecuadorian judicial system ‘does not provide impartial tribunals or procedures compatible with the requirements of due process of law,’ that the judgment itself ‘was obtained by fraud’ or that ‘the proceeding in Lago Agrio was contrary to an agreement between the parties.’” **Exhibit 11**, *Republic of Ecuador v. Chevron Corp.*, 638 F.3d 384, 396-97 (2d Cir. 2011) (citation omitted).

III. THE LAGO AGRIO LITIGATION AND THE SUBSEQUENT DECISIONS BY THE ECUADORIAN HIGHER COURTS

29. In 2001, nine years after TexPet stopped conducting any oil operations in Ecuador, Chevron acquired Texaco, Inc., through a reverse triangular merger, whereby Keepep Inc., a wholly-owned Chevron subsidiary, merged with Texaco, Inc., and Texaco, Inc., emerged as the surviving entity. Texaco, Inc., became a wholly-owned subsidiary of Chevron. Since then, Texaco, Inc. and its subsidiary TexPet continued to exist as separate corporations that maintained all of their assets and liabilities and were capable of being sued in their own right.

30. In May 2003, the Lago Agrio Plaintiffs commenced the litigation before the Lago Agrio court in Ecuador. However, they did not initiate the lawsuit against TexPet or Texaco, Inc., but rather against Chevron, seeking redress for alleged environmental impact arising from the former Consortium's activities, even though Chevron had never operated in Ecuador and had not owned TexPet during the time when TexPet operated in Ecuador.¹⁹

31. The Lago Agrio Plaintiffs purported to act in a representative capacity and asserted collective (or diffuse) claims on behalf of the local communities. At the time the Settlement and Release Agreements were executed (in 1995 and 1998, respectively), Ecuadorian law provided that only the Ecuadorian government could bring claims seeking to enforce such collective or diffuse rights, and only the Ecuadorian government possessed the authority to settle such claims.²⁰ This is why TexPet had negotiated the Settlement and Release Agreements with Ecuador and Petroecuador. Although they initiated their lawsuit in 2003, the Lago Agrio Plaintiffs nevertheless sought to apply an Ecuadorian law that went into force in 1999 (after the Settlement and Release Agreements had been executed) that granted them representative status for such claims retroactively, and asserted diffuse claims that Ecuador and Petroecuador had already settled with TexPet through the Settlement and Release Agreements.

32. For these reasons, the Lago Agrio Litigation was fundamentally different from the Aguinda Litigation that the Lago Agrio Plaintiffs had commenced in the U.S. courts, and which

¹⁹ See **Exhibit 05**, Complaint, *Piaguage v. Texaco Inc.*, No. 002-2003-P-CSJNL, Sup. Ct. of Justice – Nueva Loja, May 7, 2003, § VI (seeking remedies against Chevron).

²⁰ The arbitral tribunal in the BIT Arbitration held in 2013 that Ecuador released TexPet from any “diffuse claims” for environmental harm. **Exhibit 38**, *Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador*, PCA Case No. 2009-23, First Partial Award on Track 1 ¶ 112 (Sept. 17, 2013).

had been dismissed on the grounds of forum non conveniens. The Plaintiffs in the Lago Agrio Litigation now asserted collective claims that Texaco had already conclusively addressed through the Settlement and Release Agreements entered into with Petroecuador and Ecuador, the latter being, at the time, the only party capable of settling such claims.

33. To ensure that they would prevail in the Lago Agrio Litigation, counsel for the Lago Agrio Plaintiffs not only entered into the quid pro quo arrangement with Ecuadorian government officials, but, unbeknownst to Chevron at the time, engaged in illegal and fraudulent conduct to manufacture “evidence” in support of their claims. As documentary, video, forensic, and testimonial evidence later uncovered by Chevron revealed, the Lago Agrio Plaintiffs’ legal representatives obtained the Lago Agrio Judgment through fraudulent means, which included, among other corrupt acts: (i) secretly drafting the report of the supposedly independent, court-appointed expert upon which the Lago Agrio Judgment was based; (ii) forging the signature of one of their own experts on a report whose purported conclusions were contrary to the expert’s actual findings that there was no environmental damage in the areas he inspected; (iii) directing their experts to cease using scientifically valid techniques when those findings contradicted Lago Agrio Plaintiffs’ environmental claims; (iv) directing their experts to base their calculations on scientifically unsound assumptions invented by plaintiffs’ counsel; (v) secretly paying the court-appointed expert hush money to keep him from revealing this fraud; (vi) promising to pay US\$ 500,000 to an Ecuadorian judge in exchange for a favorable judgment; and (vii) making secret payments to another Ecuadorian judge in return for drafting orders favorable to the Lago Agrio Plaintiffs; and (viii) going so far as to ghost-write the Judgment, which was issued under a judge’s name.²¹ The illegal scheme orchestrated by counsel for the Lago Agrio Plaintiffs resulted in the Lago Agrio court issuing a US\$ 18.2 billion judgment against Chevron on February 14, 2011.

34. Although Chevron presented evidence of fraud on the part of counsel for the Lago Agrio Plaintiffs and various other participants in the Lago Agrio Litigation on appeal, the Ecuadorian appellate court affirmed the Lago Agrio Judgment, and Ecuador’s National Court of Justice subsequently upheld the judgment (although halving the amount, which had been

²¹ **Exhibit 49**, RICO District Court Opinion, at 2.

unlawfully doubled by the trial court) without addressing Chevron’s fraud claims.²² Indeed, Ecuador’s higher courts have expressly disclaimed any jurisdiction to resolve the fraud claims. The appellate court held that Chevron’s fraud and corruption claim was “a matter to which this Division should not refer at all,” and that it “ha[d] no competence to rule on the conduct of counsel, experts or other officials or administrators of justice.”²³ The National Court of Justice agreed in the subsequent appeal, stating, “it is clear that, by preserving the rights and actions of the parties, the court acknowledges the lack o[f] jurisdiction to decide whether or not there has been procedural fraud.”²⁴

35. Chevron also filed a Constitutional Action for Protection before the Ecuadorian Constitutional Court on December 23, 2013, raising these issues of fraud and corruption that gave rise to the Lago Agrio Judgment.²⁵ That action remains pending over three-and-a-half years later. Thus, to date, the Ecuadorian higher courts either have declined expressly to decide the issues of fraud and corruption regarding the Lago Agrio Judgment or simply have let the claims remain pending.

²² **Exhibit 16**, Judgment of the Provincial Court of Justice of Sucumbíos, Proceeding No. 2011-0106, Jan. 3, 2012, at 10 (“Mention is also made of fraud and corruption of plaintiffs, counsel and representatives, a matter to which this Division should not refer at all, except to let it be emphasized that the same accusations are pending resolution before authorities of the United States of America due to a complaint that has been filed by the very defendant here, Chevron, under what is known as the RICO act, and this Division has no competence to rule on the conduct of counsel, experts or other officials or administrators and auxiliaries of justice, if that were the case.”). *See also*, **Exhibit 40**, Opinion of the Ecuadorian National Court of Justice, Proceeding No. 174-2012, Nov. 12, 2013, at 95-96 and 120 (affirming the Appellate Court’s finding that “it is not within [the] scope of that court to have jurisdiction to hear collusive action cases within a summary verbal proceeding, or procedural fraud, judges’ behaviors, proper and improper meetings, the appointment of [substitute/associate] judges, plaintiffs’ connivance, among other allegations made by the appellant company” and “preserving the rights and actions of the parties” to pursue fraud claims through other channels.”). Ecuador’s National Court of Justice, did, however, strike the punitive portion of the monetary judgment as lacking any foundation under Ecuadorian law, reducing the monetary damages to US\$ 9.5 billion.

Chevron also filed evidence of the Lago Agrio Plaintiffs’ fraudulent conduct related to expert reports submitted in the Lago Agrio Litigation to the trial court. Although the trial court purported not to rely on these expert reports, the court in fact did rely upon them and their underlying data to define and set the damages assessed against Chevron. *See Exhibit 49*, RICO District Court Opinion Appendices, Appendix III, at App. 42-43 (finding that the Cabrera Report was material to the Lago Agrio Judgment).

²³ **Exhibit 16**, Judgment of the Provincial Court of Justice of Sucumbíos, Proceeding No. 2011-0106, Jan. 3, 2012, at 10.

²⁴ **Exhibit 40**, Opinion of the Ecuadorian National Court of Justice, Proceeding No. 174-2012, Nov. 12, 2013, at 120.

²⁵ **Exhibit 42**, Extraordinary Action for Protection filed on behalf of Chevron Corp. before the Constitutional Court, Nat’l Ct. of Justice – Specialized Civ. and Comm. Div., Dec. 23, 2013.

IV. ANCILLARY LITIGATION RELATED TO THE LAGO AGRIO DISPUTE

36. The information that has been provided to the Special Rapporteurs regarding ancillary domestic litigation related to the Lago Agrio Judgment is factually incorrect and incomplete. In particular, it is inaccurate to suggest that the litigation to date has been one-sided or solely driven by Chevron. To the contrary, the Lago Agrio Plaintiffs' legal representatives have threatened dozens of enforcement actions in various jurisdictions, and in fact initiated enforcement actions – none of which have been successful to date – in Argentina, Brazil, and Canada. As such, Chevron has been forced to defend itself against the enforcement of the fraudulent Lago Agrio Judgment by seeking legal protection in each of these jurisdictions. Chevron is entitled to defend itself against such enforcement actions pursuant to national laws that provide that national courts will not enforce a foreign judgment obtained through corruption and fraud because doing so would be contrary to that jurisdiction's public policy.

37. Similarly, contrary to the allegations noted in the OHCHR Letter, Chevron has not sought to demobilize human right defenders. Rather, through various lawsuits, including lawsuits for discovery of information, Chevron has uncovered overwhelming evidence of the massive fraud that had been perpetrated by the Lago Agrio Plaintiffs' counsel and advisers to procure the fraudulent Lago Agrio Judgment. And the fraud continues to this day as the Lago Agrio Plaintiffs' counsel continue to seek enforcement of the fraudulently procured Judgment in various jurisdictions.

38. The following sub-sections describe these various proceedings, with the objective of demonstrating to the Special Rapporteurs that Chevron has followed the rule of law and due process to initiate various lawsuits, and that the outcome of these litigations prove that the Lago Agrio Judgment should not be enforced.

A. DISCOVERY REQUESTS UNDER TITLE 28 § 1782 OF THE UNITED STATES CODE AND FRAUD FINDINGS BY DIFFERENT COURTS

39. The OHCHR Letter inquires about Chevron's use of discovery actions in the United States. Discovery is one of the most important procedural steps provided by U.S. law.

Chevron legally and legitimately invoked Title 28 § 1782 of the United States Code²⁶ to obtain documents from entities and individuals who possessed information related to the fraud perpetrated by the Lago Agrio Plaintiffs' counsel and representatives. Due process was followed in each of these proceedings: the party from whom documents were sought was allowed to make written submissions and present oral arguments opposing document production; such parties were also able to invoke legal privileges as to why they should not be required to disclose relevant information; and the courts carefully supervised the discovery process.

40. Third parties have suggested to the Special Rapporteurs that the Section 1782 proceedings required respondents to hire expensive counsel to address the document requests at considerable expense.²⁷ As explained below, the Section 1782 proceedings uncovered significant evidence of the fraud and corruption used to procure the Lago Agrio Judgment. Thus, it was critical that Chevron pursue these proceedings. Additionally, the Lago Agrio Plaintiffs' representatives themselves, as well as the government of Ecuador, have used the very same discovery procedures in the United States to obtain documents and testimony from Chevron, as well as third parties.²⁸ For example, counsel for the Lago Agrio Plaintiffs filed an action in the Northern District of California seeking discovery from an individual named [REDACTED] In

²⁶ **Exhibit 65**, 28 U.S.C.A. § 1782 (“(a) The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusation. The order may be made pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court. By virtue of his appointment, the person appointed has power to administer any necessary oath and take the testimony or statement. The order may prescribe the practice and procedure, which may be in whole or part the practice and procedure of the foreign country or the international tribunal, for taking the testimony or statement or producing the document or other thing. To the extent that the order does not prescribe otherwise, the testimony or statement shall be taken, and the document or other thing produced, in accordance with the Federal Rules of Civil Procedure. A person may not be compelled to give his testimony or statement or to produce a document or other thing in violation of any legally applicable privilege. (b) This chapter does not preclude a person within the United States from voluntarily giving his testimony or statement, or producing a document or other thing, for use in a proceeding in a foreign or international tribunal before any person and in any manner acceptable to him.”).

²⁷ OHCHR Letter, at 2.

²⁸ See e.g., **Exhibit 14**, *In re Yaiguaje*, Case No. 10-MC-80324 CRB (EMC), Order (N.D. Cal. Mar. 11, 2011); **Exhibit 37**, *In re Yaiguaje*, Case Nos. 11-mc-80110 CRB (NC), 11-mc-80087 CRB (NC), Order (N.D. Cal., Aug. 19, 2013).

2011, that Court considered the request, heard [REDACTED] arguments opposing the request, and ultimately ordered [REDACTED] to disclose documents.²⁹

41. Various U.S. courts considered the arguments made by the relevant parties and made important findings regarding the fraud and corruption used to procure the Lago Agrio Judgment, which entitled Chevron to obtain documents from certain third parties. For example:

- U.S. District Court for the Western District of North Carolina: “While this court is unfamiliar with the practices of the Ecuadorian judicial system, the court must believe that the concept of fraud is universal, and that what has blatantly occurred in this matter would in fact be considered fraud by any court.”³⁰
- U.S. District Court for the District of New Mexico: “The release of many hours of the [Crude video] outtakes has sent shockwaves through the nation’s legal communities, primarily because the footage shows, with unflattering frankness, inappropriate, unethical and perhaps illegal conduct [by the Lago Agrio Plaintiffs’ lawyers].”³¹
- U.S. District Court for the Southern District of New York: “[T]here is more than a little evidence that [the Lago Agrio Plaintiffs’ lead U.S. counsel] [REDACTED] activities—as several courts already have held in the context of Section 1782 applications against experts involved on the Lago Agrio plaintiffs’ side—come within the crime-fraud exception to both the privilege and to work product protection.”³²
- U.S. District Court for the District of Maryland: “I do think that probable cause has been established if for no other reason than for the production of the admittedly co-authored, or documents co-authored by the Pages, which has found its way into the decision in Ecuadorian court So, at the end of the day, regardless of how I get there, and I get there, I get to the same place by at least four or five different routes. This information is very much discoverable. It is no longer privileged, and it is to be produced immediately.”³³

²⁹ See e.g., **Exhibit 14**, *In re Yaiguaje*, Case No. 10-MC-80324 CRB (EMC), Order (N.D. Cal. Mar. 11, 2011).

³⁰ **Exhibit 58**, *Chevron Corp. v. Camp*, Nos. 1:10-mc-27, 1:10-mc-28, 2010 WL 3418394, at *6 (W.D.N.C. Aug. 30, 2010).

³¹ **Exhibit 08**, *In re Chevron Corp.*, Civ. Nos. 10-MC-21/JH/LFG, 10-MC-22 JH/LFG, Amended Memorandum Opinion and Order Authorizing Discovery, at 3-4 (D.N.M. Sept. 2, 2010).

³² **Exhibit 09**, *In re Chevron Corp.*, 10 MC 00002 (LAK), Opinion (Corrected), at 47 (S.D.N.Y. Nov. 10, 2010) (Kaplan, J.).

³³ **Exhibit 15**, *Chevron Corp. v. Page*, Civ. Act. RWT-11-1942, Hr’g Tr. at 10:16-11:23 (Day, Mag. J.) (D. Md. Aug. 31, 2011).

- U.S. Court of Appeals for the Third Circuit: “[The] showing of [the Lago Agrio Plaintiffs’ technical consultant] [REDACTED] dual employment is sufficient to make a prima facie showing of a fraud that satisfies the first element of the showing necessary to apply the crime-fraud exception to the attorney-client privilege.”³⁴
- U.S. District Court for the Southern District of New York: “There is ample evidence of fraud in the Ecuadorian proceedings. The [Lago Agrio Plaintiffs “LAPs”], through their counsel, submitted forged expert reports Their counsel orchestrated a scheme in which [the Lago Agrio Plaintiffs’ technical consulting firm] Stratus ghost-wrote much or all of [court expert] Cabrera’s supposedly independent damages assessment without, as far as the record discloses, notifying the Ecuadorian court of its involvement. . . . When it became evident that the LAPs’ improper contacts with Cabrera, including the pre-appointment meetings, ghost-writing, and illicit payments, would be revealed through the Section 1782 proceedings, LAP representatives undertook a scheme to ‘cleanse’ the Cabrera report. They hired new consultants who, without visiting Ecuador or conducting new site inspections and relying heavily on the initial Cabrera report, submitted opinions that increased the damages assessment from \$27 billion to \$113 billion.”³⁵
- U.S. District Court for the Southern District of Florida: “Chevron has obtained mounds of evidence, in multiple § 1782 proceedings, that suggests that the judgment itself was also ghostwritten. For example a forensic document analysis conducted on the judgment revealed that it contains verbatim passages that were taken from various pieces of the LAP lawyers’ internal, unfiled work product Here, the matter pertains to a large scale fraud upon an American corporation – and a related multibillion dollar judgment – by and between persons in the United States using funds that likely originated in the United States.”³⁶
- U.S. District Court for the Southern District of New York: “[T]he LAPs’ procurement of the termination of judicial inspections, the adoption of the global assessment, and the appointment of Cabrera all unquestionably were tainted. The secret participation of the LAP team in Cabrera’s activities and its secret drafting of the bulk of Cabrera’s report were tainted as well. Moreover, there are serious questions concerning the preparation of the Judgment itself in view of the identity between some portions of the Judgment and the Unfiled Fusion Memo, especially in light of the undisputed pattern of ex parte advocacy in the Lago Agrio Litigation and

³⁴ **Exhibit 10**, *In re Chevron Corp.*, No. 10-2815, Opinion of the Court, at 28 (3d Cir. Feb. 3, 2011).

³⁵ **Exhibit 13**, [REDACTED]

³⁶ **Exhibit 24**, *In re Chevron Corp.*, Case No. 11-24599-CV-COOKE/TURNOFF, Order and Recommendation, at 4, 26 (S.D. Fla. June 12, 2012).

the undisputed evidence of the LAP team's coercion of and duress on one of the judges to obtain a desired result."³⁷

42. Through these actions Chevron obtained irrefutable evidence of the Lago Agrio Plaintiffs' counsel's and representatives' fraudulent and corrupt scheme to procure the Lago Agrio Judgment. For example, in an email communication, one of the Lago Agrio Plaintiffs' Ecuadorian lawyers urged their lead U.S. counsel [REDACTED] to conceal emails evidencing their corrupt scheme, stating:

Today [REDACTED] [REDACTED] lead Ecuadorian counsel for the Plaintiffs at the time] and [REDACTED] [REDACTED] a Lago Agrio Plaintiffs' representative] were kind enough to tell us what was going on in Denver, and the fact that certainly ALL will be made public, including correspondence. From what you say we must prepare ourselves to minimize the effects . . . Apparently this is normal in the U.S. and there is no risk there, but the problem, my friend, is that the effects are potentially devastating in Ecuador (apart from destroying the proceeding, all of us, your attorneys, might go to jail), and we are not willing to minimize our concern and to sit to wait for whatever happens. For us it is NOT acceptable for the correspondence, the emails, between [REDACTED] [Plaintiffs' environmental consultants, who later recanted] and [REDACTED] and myself be divulged (emphasis added).

43. In sum, the record shows that, contrary to the allegation made by third parties in the OHCHR Letter, the Section 1782 proceedings were not used to stigmatize the work of the Lago Agrio Plaintiffs' legal counsel and other representatives.³⁸ The communication cited above between the legal counsel for the Lago Agrio Plaintiffs is just one of many pieces of evidence demonstrating that the Lago Agrio Plaintiffs' legal counsel and representatives committed fraud. Upon reviewing the information uncovered through the document requests, numerous courts and tribunals in several countries have concluded that the Lago Agrio Plaintiffs' legal counsel and representatives procured the Lago Agrio Judgment through fraud and corruption.

³⁷ Exhibit 25, [REDACTED]

³⁸ OHCHR Letter, at 2. The letter also noted that it has been "reported that in many cases, legal personnel of Chevron would follow-up its filing with threatening phone calls telling the respondents that the only way to avoid the extensive expenses would be to hand over all their computers and files without judicial oversight." *Id.* This is a new and completely unsupported allegation, which Chevron denies.

B. MEMBERS OF THE LAGO AGRIO PLAINTIFFS' LEGAL AND CONSULTING TEAM HAVE CONFIRMED THE LAGO AGRIO FRAUD

44. As discussed in Section A above, Chevron instituted discovery actions under Section 1782 to uncover the illegal and fraudulent conduct which was taking place in the Lago Agrio Litigation. Chevron did not initiate these actions to harass or demobilize human rights defenders. The best evidence in this regard is the fact that Chevron uncovered substantial evidence of the fraud committed by the Lago Agrio Plaintiffs' legal and consulting team. Among that evidence is witness testimony by the environmental experts selected by counsel for the Lago Agrio Plaintiffs, and by litigation funders who funded the Lago Agrio Litigation.

45. Once objective fraud-related evidence came to light, key participants in the Lago Agrio Plaintiffs' legal and consulting team chose to admit what really took place in the Lago Agrio Litigation for different reasons, including: (i) being under a duty to disclose truthful information to a court; (ii) for business and professional reasons; and/or (iii) remorse. Here are some examples:

46. First, [REDACTED] one of the Lago Agrio Plaintiffs' experts in assessing environmental harm, testified that an expert report submitted under his name to the Lago Agrio court had been forged. Evidence demonstrated that counsel for the Lago Agrio Plaintiffs forged his report after Mr. [REDACTED] admitted in emails that "[the [REDACTED] report results indicate that hydrocarbons are below detection limits. The report does not help us." Dr. [REDACTED] testified that after he wrote his inspection report, the Lago Agrio Plaintiffs' legal team asked him to initial approximately 30 blank pages. They then took those blank pages and filled them with words not authored by [REDACTED] including false conclusions that the former joint operations area was highly contaminated and that TexPet's remediation efforts had been substandard.³⁹ But, in fact, Dr. [REDACTED] "never concluded that TexPet had failed to remediate any site or that any site posed a health or environmental risk."⁴⁰ Thus, someone on the [Lago Agrio Plaintiffs'] legal team used the blank pages [REDACTED] had initialed and his signature pages to submit over his name two reports that contained conclusions he did not

³⁹ Exhibit 49, RICO District Court Opinion, at 56-57.

⁴⁰ *Id.*

reach.”⁴¹ Counsel for the Lago Agrio Plaintiffs then filed the forged report with the Ecuadorian Court, knowing that it was false.⁴²

47. Second, [REDACTED] an environmental scientist who served as a consultant to the Lago Agrio Plaintiffs at the start of the Lago Agrio case, testified that counsel for the Lago Agrio Plaintiffs “tainted the legal process in Ecuador and are lying about the environmental conditions there.”⁴³ The Lago Agrio Plaintiffs hired [REDACTED] to generate remediation cost estimates for the former joint operations area. [REDACTED] investigation was limited in scope: he visited only about 45 of the hundreds of pits in the region, and some of these “visits” constituted merely driving past sites at 40 or 50 miles per hour.⁴⁴ The Lago Agrio Plaintiffs’ lawyers told [REDACTED] to assume that the contamination was solely TexPet’s responsibility and not Petroecuador’s.⁴⁵

48. Based on these false assumptions, and on what [REDACTED] admitted was incomplete scientific data, [REDACTED] made what he called a “scientific wild ass guess” that the remediation cost might be US\$ 6 billion.⁴⁶ Counsel for the Lago Agrio Plaintiffs then embraced this figure, “despite the fact that they knew that it could not withstand serious analysis.”⁴⁷ On February 14, 2006, [REDACTED] was so disturbed by the Lago Agrio Plaintiffs’ counsel’s misuse of this unreliable US\$ 6 billion figure that he sent a “cease and desist” letter to the Lago Agrio Plaintiffs’ lawyers, demanding that they stop using his name in support of their claims.

49. [REDACTED] also testified that the Lago Agrio Judgment is not in any way supported by the evidence:

⁴¹ *Id.*

⁴² *Id.*, at 57.

⁴³ **Exhibit 34**, [REDACTED] ¶ 2.

⁴⁴ **Exhibit 78**, [REDACTED] ¶ 5.

⁴⁵ **Exhibit 63**, Russell Declaration, ¶ 6.

⁴⁶ **Exhibit 75**, [REDACTED]

⁴⁷ **Exhibit 49**, RICO District Court Opinion, at 44. As [REDACTED] acknowledged, their purpose was to “make media/court/[Chevron] itself start thinking in terms of billions’ and potentially to use the figure to pique the SEC’s interest in the litigation [N]o . . . competent study . . . supports [REDACTED] claim about the \$ 6 billion damage figure.” *Id.*, at 49-50.

I had seen no evidence of any widespread contamination and there was no evidence linking residents' health problems to Texaco operations. The idea that the cleanup of the oil pits in the area would require billions of dollars is nonsense. I am confident that the damages number in the judgment has no basis in fact.⁴⁸

50. Third, environmental consultants [REDACTED] and [REDACTED] acknowledged that counsel for the Lago Agrio Plaintiffs hired them and their team to secretly write the expert reports of the supposedly neutral, court-appointed Ecuadorian expert, Richard Cabrera (the "Cabrera Report").⁴⁹ Importantly, the Lago Agrio Judgment's US\$ 9 billion damages award (revised downwards by the appellate court from US\$ 18.2 billion) relies significantly on the Cabrera Report.⁵⁰ In a sworn witness statement, [REDACTED] confessed the entire scheme by which he and his team (under the instructions of Mr. [REDACTED] and other of the Lago Agrio Plaintiffs' lawyers) secretly ghostwrote the Cabrera reports and most of their annexes.⁵¹ As [REDACTED] explained, Mr. [REDACTED] told the consultants from the outset that the damage assessment would be the basis of "a major damages claim, probably in the many billions of dollars."⁵²

51. The Lago Agrio Plaintiffs' legal and consulting team predetermined the scale of the global damage assessment and decided that "they themselves would write a report that would support their claim for billions of dollars against Chevron and would simply put Mr. [REDACTED] name on it." According to [REDACTED] there was no indication that Mr. Cabrera had any "independent team," but rather the only people he ever witnessed preparing the Cabrera report were the Lago Agrio Plaintiffs' representatives.⁵³

⁴⁸ **Exhibit 34**, [REDACTED] Affidavit ¶ 31.

⁴⁹ See **Exhibit 30**, Witness Statement of [REDACTED] Mar. 21, 2013 ("[REDACTED] Witness Statement") ¶¶ 10-11; **Exhibit 31**, Witness Statement of Ann Maest, Mar. 21, 2013 ("Maest Witness Statement") ¶ 9. The Lago Agrio Plaintiffs' Ecuadorian law experts in the United States admitted that it is a crime for a "lawyer and [an expert to] . . . deceiv[e] the appointing judge as to [the expert's] impartiality." It is indisputable that under Ecuadorian law, "if somebody else writes the report for [the expert], obviously, it violates all conditions and [] it's illegal."

⁵⁰ See **Exhibit 49**, RICO District Court Opinion, Appendix III at App. 42-43 (finding that the Cabrera Report was material to the Lago Agrio Judgment).

⁵¹ **Exhibit 30**, [REDACTED] Witness Statement ¶ 22.

⁵² *Id.* ¶ 8.

⁵³ *Id.* ¶ 16.

52. In a sworn statement, ██████████ testified that his team ghostwrote Cabrera's reports:

I prepared the first drafts of substantial parts of . . . the main body of the Cabrera Report. At ██████████ direction, I drafted my portions of the report in the first person as though it was written by Richard Cabrera. I supervised the preparation by ██████████ and other ██████████ personnel or subcontractors of 11 of the 24 subreports and appendices, known as 'Annexes,' to the Cabrera Report.⁵⁴

According to ██████████ "[t]he Cabrera damages assessment is tainted and not supported by reliable scientific bases and I disavow it."⁵⁵

53. ██████████ also disavowed any findings of adverse health effects in the Oriente region. Having evaluated all of the data on which the Cabrera reports and the Lago Agrio Judgment rely, ██████████ stated in his sworn affidavit: "I am not aware of scientific data that shows that any adverse health effects are caused by contamination from petroleum operations in the Oriente."⁵⁶ Further, he testified that "none of the drinking water samples I have seen exceeded the drinking water guidelines or standards established by WHO and the U.S. EPA for any chemical compound related to oil operations, let alone exclusively TexPet operations."⁵⁷

54. Similarly, another of the Lago Agrio Plaintiffs' environmental consultants, ██████████ also disavowed her work on the Lago Agrio case and her work on the ghostwritten Cabrera reports. She testified: "I have reviewed ██████████ statements and have no reason to doubt his conclusion that the Cabrera damages assessment is tainted, is not supported by reliable information, and cannot support a valid damage claim. I therefore disavow the Cabrera Report and Cabrera Response."⁵⁸

55. The law firm Patton Boggs LLP ("Patton Boggs"), a lobbying and law firm headquartered in Washington, D.C., withdrew from representation of the Lago Agrio Plaintiffs.

⁵⁴ *Id.* ¶ 22.

⁵⁵ *Id.* ¶ 47.

⁵⁶ *Id.* ¶ 51.

⁵⁷ *Id.* ¶ 50.

⁵⁸ **Exhibit 31**, Maest Witness Statement ¶ 43.

On May 7, 2014, Patton Boggs and Chevron reached a settlement in which Patton Boggs withdrew from the Ecuadorian litigation, issued a statement of regret as to its prior representation of the Lago Agrio Plaintiffs,⁵⁹ assigned its interest in the litigation (what Patton Boggs would have stood to recover from the Lago Agrio Judgment) to Chevron, and made a payment to Chevron of US\$ 15 million. In return, Chevron agreed to release all claims against Patton Boggs and its partners.

56. Many of these confessions were prompted by blatant evidence of the Lago Agrio Plaintiffs' lead lawyer, ██████████ instructing his expert team to manufacture false evidence. Videotaped clips emerged in discovery of ██████████ expressing the "need to make facts . . . that help us" even though "the facts that we need don't always exist." According to ██████████ ██████████ the lawyers "have to get the right facts. And if they don't exist in an obvious way, you got to go figure out how to make 'em. Otherwise, you're gonna lose."⁶⁰

57. In one videotaped meeting, several of the Lago Agrio Plaintiffs' experts told ██████████ ██████████ that there was no evidence of any groundwater contamination spreading from the pits: "all the reports are saying it's [i.e., groundwater contamination] just at the pits and the stations and nothing has spread anywhere at all."⁶¹ ██████████ tried to convince them otherwise, but when they were not easily swayed, he finally said, "[h]old on a second, you know, this is Ecuador, okay, . . . You can say whatever you want and at the end of the day, [if] there's a thousand people around the courthouse, you're going to get what you want" and "if we take our existing evidence on groundwater contamination which admittedly is right below the source . . . [a]nd wanted to extrapolate based on nothing other than our . . . theory," then "[w]e can do it.

⁵⁹ **Exhibit 45,** ██████████ Today's resolution of our firm's disputes will allow us to end our involvement in the Lago Agrio matter. The recent opinion of the United States District Court for the Southern District of New York in the *Chevron v. Donziger* case includes a number of factual findings about matters which would have materially affected our firm's decision to become involved and stay involved in this matter. ██████████ see also **Exhibit 46, *Patton Boggs LLP v. Chevron Corp.*, Case No. 12-cv-9176 (LAK), Stipulation and [Proposed] Order of Dismissal With Prejudice (S.D.N.Y. May 7, 2014), available at <http://www.theamazonpost.com/wp-content/uploads/2014-05-07-Executed-Stipulation-and-Exhibit-A.pdf>.**

⁶⁰ We will provide relevant, unedited outtakes from the documentary *Crude* should the Special Rapporteurs wish to review them. Such review will demonstrate that the allegation that Chevron manipulated the edited outtakes is baseless—the outtakes speak for themselves.

⁶¹ The experts' private admission about the lack of evidence of groundwater contamination—when viewed in light of the Plaintiffs' contradictory public assertions—displays the Plaintiffs' contempt for any need for evidence.

And we can get money for it.” He went on: “because at the end of the day, this is all for the Court just a bunch of smoke and mirrors and bullshit. It really is. We have enough, to get money, to win.”

58. Fifth, the Lago Agrio Plaintiffs’ litigation funders and counsel also have disavowed the Lago Agrio Judgment and renounced their share of the proceeds. Contrary to the allegations noted in the OHCHR Letter, the Lago Agrio Plaintiffs have been well funded with tens of millions of dollars through third parties in the various lawsuits that concern the Lago Agrio Judgment. Burford Capital, LLC (a finance firm specializing in litigation financing, which invested US\$ 4 million in the Lago Agrio Plaintiffs’ case) terminated its funding agreement with the Lago Agrio Plaintiffs in 2011.⁶² [REDACTED] the CEO of [REDACTED] testified in a sworn statement that “Burford told the plaintiffs and their lawyers that it had been defrauded into funding the litigation: ‘[W]e believe that you and particularly your U.S. representatives engaged in a multi-month scheme to deceive and defraud in order to secure desperately needed funding . . . all the while concealing material information and misrepresenting critical facts in the fear that we would have walked away had we known the true state of affairs.’”⁶³

59. [REDACTED] of [REDACTED] the U.S. law firm that also provided millions of dollars in funding to the Lago Agrio Plaintiffs, wrote in 2010 that his firm had “no knowledge” of an external consultant’s involvement in drafting the report of the court-appointed expert, Mr. Cabrera, “except what [REDACTED] has now reluctantly told [them]: that it involves communications with Cabrera, something that surprised [REDACTED] and that we find quite disturbing if true.” [REDACTED] subsequently testified in the RICO litigation that the lead U.S. counsel for the Lago Agrio Plaintiffs had withheld information from him about the ghostwriting of the Cabrera report (allegedly authored by the Ecuadorian court-appointed expert).⁶⁴

60. On February 16, 2015, Chevron reached a settlement agreement with [REDACTED] [REDACTED] the principal funder of the Ecuadorian litigation. [REDACTED] admitted that he

⁶² **Exhibit 32**, Bogart Declaration ¶ 4.

⁶³ *Id.* ¶ 36.

⁶⁴ **Exhibit 49**, RICO District Court Opinion, at 163.

funded the Lago Agrio Plaintiffs approximately US\$ 23 million.⁶⁵ In exchange for Chevron's releasing its claims against [REDACTED] he withdrew financial support for the Ecuadorian litigation and assigned his interests in the litigation (the share of the proceeds from the Lago Agrio Judgment that he would receive) to Chevron. In a public statement, [REDACTED] stated:

Commencing in March 2007, I provided funding to support the litigation in Ecuador against Chevron Corporation, in the good faith belief that I was supporting a worthy cause. However, I have since reviewed the March 4, 2014 opinion by Judge Kaplan of the United States District Court for the Southern District of New York setting out the Court's findings and I have also considered the evidence presented during the trial. As a result, I have concluded that representatives of the Lago Agrio plaintiffs, including [REDACTED] misled me about important facts. If I had known these facts, I would not have funded the litigation.⁶⁶

61. The above confessions and recantations of first-hand actors in the scheme, along with the findings of numerous courts and officials that fraud conclusively took place, prove that Chevron's actions have not been meant to harass or demobilize legitimate human rights defenders, but rather to hold corrupt lawyers and consultants, masquerading under the banner of human rights, accountable for their fraud against the company and the judicial process. Additionally, it should be noted that counsel for the Lago Agrio Plaintiffs, including their lead U.S. counsel [REDACTED] stand to gain hundreds of millions of dollars in the event the Lago Agrio Judgment is enforced.⁶⁷

C. THE RICO ACTION AGAINST THE LAGO AGRIO PLAINTIFFS' REPRESENTATIVES

62. Faced with the Ecuadorian courts' unwillingness to address the extensive fraud and corruption during the Lago Agrio Litigation, Chevron explored other venues in which it

⁶⁵ **Exhibit 50**, *Chevron Corp. v. DeLeon and Torvia Ltd.*, Claim No. 2012-C-232, Defence and Counterclaim of the First and Second Defendants, (Supr. Ct. Gibraltar July 30, 2014) ¶ 4 ("The funding was provided by [REDACTED] and subsequently through [REDACTED] in the period between March 2007 and October 2013 in a total amount of approximately \$23 million.").

⁶⁶ **Exhibit 66**, "Financial Backer of Fraudulent Ecuador Litigation Withdraws Support, Settles," Press Release, CHEVRON.COM, Feb. 16, 2015, available at <https://www.chevron.com/stories/Financial-Backer-of-Fraudulent-Ecuador-Litigation-Withdraws-Support-Settles>.

⁶⁷ [REDACTED] **Exhibit 49**, RICO District Court Opinion, at 223.

could enforce its rights and seek a remedy for the due process abuses inflicted on it during the Lago Agrio Litigation. As discussed above, both the Ecuadorian appellate court and the National Court of Justice refused to entertain Chevron’s fraud allegations.⁶⁸ In 2011, Chevron filed a complaint in the United States District Court for the Southern District of New York, alleging, inter alia, claims of fraud under the Racketeer Influenced and Corrupt Organizations Act (the “RICO Act”) against U.S. and Ecuadorian legal representatives of the Lago Agrio Plaintiffs. The RICO Act is a U.S. federal statute that provides for criminal penalties and a civil cause of action for acts of racketeering or corruption performed as part of an ongoing criminal organization.⁶⁹

63. Chevron prevailed in this lawsuit based on the extensive findings of fraud by the District Court, which were subsequently affirmed by the Second Circuit Court of Appeals. Among other findings, the court concluded that (i) the Lago Agrio Judge agreed to rule in favor of the Lago Agrio Plaintiffs in exchange for a bribe of US\$ 500,000 arising out of any judgment proceeds, (ii) the representatives of the Lago Agrio Plaintiffs drafted “all or most of the Judgment,” and (iii) the Lago Agrio Judge signed the draft without substantial modification in exchange for the promise of US\$ 500,000.⁷⁰

64. United States District Judge Lewis Kaplan presided over the RICO litigation. Former United States President Bill Clinton appointed Judge Kaplan to serve as a United States federal judge in New York, which he has done for over 20 years. From the very outset of the RICO case, the defendants repeatedly tried to recuse Judge Kaplan, purporting to rely on his previous rulings rendered against the defendants in previous, related cases as alleged evidence of partiality.⁷¹ The defendants first requested Judge Kaplan’s recusal less than a week after Chevron filed the RICO action.⁷² Subsequently, in March 2013, the Lago Agrio Plaintiffs filed another petition for a writ of mandamus seeking to reassign the case from Judge Kaplan. That petition alleged that the Lago Agrio Plaintiffs had faced “unfair treatment” at the hands of Judge

⁶⁸ See ¶¶7, 34-35 above. Later, in December 2013, Chevron additionally sought relief from the Ecuadorian Constitutional Court. That case has not yet reached a resolution. *Id.*

⁶⁹ **Exhibit 49**, RICO District Court Opinion, at 339-40.

⁷⁰ *Id.* at 281.

⁷¹ *Id.*, at 314.

⁷² *Id.*

Kaplan, and requested that the Second Circuit reassign the case to another District Court judge before trial (which was scheduled for just a few months later). The Second Circuit held oral argument less than one month before the trial, and denied the petition, reasoning that “[b]ias cannot be inferred from a mere pattern of rulings by a judicial officer, but requires evidence that the officer had it in for the party for reasons unrelated to the officer’s view of the law.”⁷³

65. Over the course of October and November 2013, Judge Kaplan held a seven-week trial on Chevron’s claims, hearing live testimony from 31 witnesses, receiving sworn or stipulated testimony from 37 others, and reviewing thousands of exhibits as well as extensive post-trial briefing submitted by the parties.⁷⁴

66. The OHCHR Letter mentioned a concern that the District Court had improperly permitted Chevron’s case to be decided by Judge Kaplan (in a bench trial) rather than by a jury.⁷⁵ This is not correct. U.S. law required Judge Kaplan to hold a bench trial due to the circumstances of the case. Chevron withdrew its claim for monetary damages on the basis that it would not likely recover such damages, which would be in the range of many millions of dollars, from Mr. [REDACTED]. On October 7, 2013, Judge Kaplan issued an order explaining that “the Court lacks the power to grant a jury trial” because “it is well settled [under U.S. federal law] that when a party withdraws its damages claims and pursues only equitable relief, a jury trial is no longer available and issues must be tried by the court” and “in such circumstances, trial by jury is available only if the parties and the trial judge all agree to it.”⁷⁶ As Judge Kaplan’s opinion made clear, he did not exercise discretion in denying the RICO defendants the right to a jury trial; to the contrary, Judge Kaplan lacked the power to order a jury trial under the circumstances of the case. Notably, Mr. [REDACTED] and the other RICO defendants did not appeal this decision.

67. With respect to the number of documents submitted in the case, Chevron submitted documents necessary to establish that counsel for the Lago Agrio Plaintiffs defrauded

⁷³ *Id.*

⁷⁴ *Id.*, at 2.

⁷⁵ OHCHR Letter, at 3.

⁷⁶ Exhibit 39 [REDACTED].

Chevron during the Lago Agrio Litigation. Indeed, the “extraordinary” nature of the RICO defendants’ fraud resulted in the need to present voluminous evidence. As Judge Kaplan acknowledged in his opinion, “[t]he facts are many and sometimes complex,” “the evidence is voluminous,” and included “thousands of exhibits.”⁷⁷ In addition, Judge Kaplan “heard 31 witnesses in person,” and “considered the deposition and/or other sworn or, in one instance, stipulated testimony of 37 others.”⁷⁸

68. The submission of evidence during the trial was subject to party negotiation, which provided the RICO defendants with a role in determining how evidence would be introduced. Thus, contrary to the allegation repeated in the OHCHR Letter,⁷⁹ the RICO defendants did not suffer any burden in responding to document submissions. Counsel for Chevron and counsel for the defendants met and conferred regarding the exhibits throughout the trial, during which time both sides identified and discussed their objections. This negotiation began in July 2013, but the RICO defendants refused for almost two months to commit to exchange exhibit lists. Finally, Chevron unilaterally provided its exhibit list to the defendants on October 4, 2013, and requested that the defendants identify their objections by noon on October 11, 2013. However, the defendants failed to meet this deadline, prompting Judge Kaplan to order, on October 15, 2013, that the parties work together to present him with a list of objections by October 21. Counsel for both sides then reviewed all of the exhibits to be published to the court at the close of the case in mid-November and identified any additional issues. The RICO defendants were never limited in their ability to object and were never under threat of having “all objections waived” at any point during that process. The parties all agreed on a process of identifying objections to exhibits and submitting them to the court. Ultimately, both parties submitted substantial evidence during the course of the litigation. In fact, on the last day of the trial, the RICO defendants and the Lago Agrio Plaintiff representatives submitted more than 1,000 new exhibits without explaining these documents’ relevance or significance.⁸⁰

⁷⁷ *Id.* at 1-2.

⁷⁸ **Exhibit 49**, RICO District Court Opinion, at 2.

⁷⁹ *See* OHCHR Letter, at 3.

⁸⁰ **Exhibit 49**, RICO District Court Opinion, at 305.

69. Chevron did not rely on “secret witnesses” to support its case, as alleged in the OHCHR Letter. The so-called “secret witnesses” refer to three witnesses for whom the District Court issued a protective order concealing their identities from third parties, including the Lago Agrio Plaintiffs’ lawyers in Ecuador. The District Court did so in order to protect those witnesses from subsequent persecution in Ecuador. The witnesses, who were identified as “Doe 1,” “Doe 2,” and “Doe 3,” were Ecuadorian residents who corroborated the allegations of fraud and misconduct against the Lago Agrio Plaintiffs’ representatives and counsel.⁸¹ These witnesses were not “secret”—counsel of record for all parties in the case and two of the defendants, as well as Judge Kaplan had access to their identities and statements.⁸² However, Chevron requested that the court prevent disclosure of the Doe witnesses’ identities to other parties, including the Lago Agrio Plaintiffs’ Ecuadorian lawyers, in order to protect them from retaliation in Ecuador.⁸³ When considering this request, Judge Kaplan reviewed the evidence of past misconduct by the Lago Agrio Plaintiffs’ representatives and found that a protective order was warranted.⁸⁴

70. Judge Kaplan additionally noted that counsel for the Lago Agrio Plaintiffs had “deliberately pursued a strategy of intimidation and coercion aimed at the judiciary,”⁸⁵ and that the Doe witnesses were “justified in fearing reprisals at the hands of their own government if their identities became known.”⁸⁶ Based on these facts, Judge Kaplan issued a protective order preventing disclosure of the Does’ identity “[i]n the interest of the safety and well being of these

⁸¹ Exhibit 29, [REDACTED]

⁸² See *id.*, at 2.

⁸³ *Id.*

⁸⁴ The court observed, “While the question whether [REDACTED] account is accurate will be decided on another day, the threats by [REDACTED] Fajardo [two of the Lago Agrio Plaintiffs’ Ecuadorian lawyers] against [REDACTED] and Guerra [witnesses who testified against the Lago Agrio Plaintiffs] as well as [REDACTED] undisputed role in [REDACTED] the judge with respect to the judicial inspections and Cabrera’s appointment, the persistent obstruction of discovery in this case, and virtually the entire record evidence a substantial risk that [REDACTED] and their associates would attempt to coerce, intimidate, and initiate reprisals against the Does if they learned their identities.” Exhibit 29, [REDACTED]

⁸⁵ Exhibit 29, [REDACTED]

⁸⁶ *Id.*, at 25.

witnesses.”⁸⁷ In any case, the Doe witness statements ultimately were not admitted into evidence, and Judge Kaplan did not rely on them in making his decision.

71. Judge Kaplan discussed the testimony of other witnesses at length in his opinion, including the testimony of former Judge [REDACTED]. Judge [REDACTED] provided documentary evidence and sworn testimony showing that he had personally helped Judge [REDACTED] (the alleged author of the Lago Agrio Judgment) as a ghostwriter drafting various orders in the context of the Lago Agrio Litigation and eventually also the Lago Agrio Judgment itself. He further testified that Judge [REDACTED] accepted a bribe from the Lago Agrio Plaintiffs to write the Judgment in their favor.

72. Contrary to the allegations in the OHCHR Letter, which suggest that it was improper for Judge Kaplan to have admitted Judge [REDACTED] testimony into the record, Judge Kaplan did so in a careful and deliberate manner. He noted that Judge [REDACTED] was a problematic witness because he was “self-interested,” and recognized that his testimony “should be scrutinized with great care and viewed with particular caution.”⁸⁸ Nevertheless, having heard Judge [REDACTED] in-person testimony and a multi-day cross-examination, and reviewed supporting documents, Judge Kaplan found Judge [REDACTED] to be credible with respect to the key aspects, noting that “[f]rom the standpoint of demeanor, Guerra was an impressive witness. He testified clearly, directly, and responsively, regardless of which side questioned him. He rarely hesitated.”⁸⁹

73. Ultimately, Judge Kaplan’s opinion was not based on Judge [REDACTED] testimony alone. Rather, it was based on “the entire record – including but not limited to the circumstantial evidence that predominantly supports Chevron’s contention and the Court’s evaluation of all the pertinent testimony.”⁹⁰ On March 4, 2014, Judge Kaplan issued a nearly 500-page opinion holding that the Lago Agrio Judgment had been procured by fraud and corruption and that the Lago Agrio Plaintiffs’ legal representatives had engaged in extortion, mail and wire fraud,

⁸⁷ *Id.*, at 34. *See also*, **Exhibit 47** [REDACTED] 3.

⁸⁸ **Exhibit 49**, RICO District Court Opinion, at 222.

⁸⁹ *Id.* at 250.

⁹⁰ *Id.* at 281.

money-laundering, obstruction of justice, and witness-tampering.⁹¹ As a result, Judge Kaplan concluded that the Judgment was not entitled to recognition and enforcement in United States courts.⁹² Chevron encourages the Special Rapporteurs to review Judge Kaplan’s opinion in its entirety as it sheds invaluable light on the litigation strategy and activities of the Lago Agrio representatives in the Lago Agrio Litigation. Below, we highlight some of the key findings from that decision for the convenience of the Special Rapporteurs:

- “This case is extraordinary. The facts are many and sometimes complex. They include things that normally come only out of Hollywood – coded emails among ██████████ and his colleagues describing their private interactions with and machinations directed at judges and a court-appointed expert, their payments to a supposedly neutral expert out of a secret account, a lawyer who invited a film crew to innumerable private strategy meetings and even to ex parte meetings with judges, an Ecuadorian judge who claims to have written the multibillion dollar decision but who was so inexperienced and uncomfortable with civil cases that he had someone else (a former judge who had been removed from the bench) draft some civil decisions for him, an 18-year old typist who supposedly did Internet research in American, English, and French law for the same judge, who knew only Spanish, and much more. The evidence is voluminous. The transnational elements of the case make it sensitive and challenging. Nevertheless, the Court has had the benefit of a lengthy trial. It has heard 31 witnesses in person and considered deposition and/or other sworn or, in one instance, stipulated testimony of 37 others. It has considered thousands of exhibits. It has made its findings, which of necessity are lengthy and detailed.”⁹³
- “Ultimately, the LAP team wrote the Lago Agrio court’s Judgment themselves and promised \$500,000 to the Ecuadorian judge to rule in their favor and sign their judgment. If ever there were a case warranting equitable relief with respect to a judgment procured by fraud, this is it.”⁹⁴
- “The wrongful actions of ██████████ and his Ecuadorian legal team would be offensive to the laws of any nation that aspires to the rule of law, including Ecuador – and they knew it. Indeed, one Ecuadorian legal team member, in a moment of panicky candor, admitted that if documents exposing just part of what they had done were to come to

⁹¹ *Id.* at 200-19.

⁹² *Id.* at 478-79.

⁹³ *Id.* at 1-2.

⁹⁴ *Id.*, at 2.

light, ‘apart from destroying the proceeding, all of us, your attorneys, might go to jail.’ It is time to face the facts.”⁹⁵

- “In view of the entire record . . . this Court finds that (a) [Ecuadorian Judge] ██████████ agreed with [Plaintiffs’ lead Ecuadorian lawyer ██████████ ██████████] to fix the case for a payment of \$500,000 paid out of any judgment proceeds, (b) ██████████ did so with ██████████ express authorization, (c) the LAPs drafted all or most of the Judgment, and (d) ██████████ signed their draft without consequential modification as part of the quid pro quo for the promise of \$500,000.”⁹⁶
- “[T]his Court finds that Ecuador, at no time relevant to this case, provided impartial tribunals or procedures compatible with due process of law. The decisions of its courts in the Lago Agrio case are not entitled to recognition in the courts in the United States.”⁹⁷

74. In addition to making specific findings of fraud and misconduct by the RICO defendants, Judge Kaplan also put in context the RICO defendants’ allegations of environmental harm:

The Court assumes that there is pollution in the Orient[e]. On that assumption, Texaco and perhaps even Chevron—though it never drilled for oil in Ecuador—might bear some responsibility. In any case, improvement of conditions for the residents of the Orient[e] appears to be both desirable and overdue. . . .

The issue here is not what happened in the Orient[e] more than twenty years ago and who, if anyone, now is responsible for any wrongs then done. It is instead whether a court decision was procured by corrupt means, regardless of whether the cause was just. An innocent defendant is no more entitled to submit false evidence, to coopt and pay off a court-appointed expert, or to coerce or bribe a judge or jury than a guilty one. So even if ██████████ and his clients had a just cause—and the Court expresses no opinion on that—they were not entitled to corrupt the process to achieve their goal.

⁹⁵ *Id.* at 4-5.

⁹⁶ *Id.* at 281.

⁹⁷ *Id.* at 433.

Justice is not served by inflicting injustice. The ends do not justify the means. There is no “Robin Hood” defense to illegal and wrongful conduct.⁹⁸

75. Mr. [REDACTED] and two of the Lago Agrio Plaintiffs’ representatives appealed Judge Kaplan’s decision, arguing that (i) the District Court lacked jurisdiction over the claims, (ii) Chevron was estopped from challenging the Lago Agrio Judgment, (iii) previous precedent foreclosed the possibility of equitable relief, and (iv) the District Court’s judgment violated principles of international comity (regarding the treatment of the Lago Agrio Judgment rendered by an Ecuadorian court).⁹⁹ Notably, neither Mr. [REDACTED] nor any of the other defendants appealed the extensive factual findings of fraud made by the District Court – even though under U.S. procedural rules they were fully entitled to do so. Nor did the defendants raise any procedural concerns regarding the submission of evidence before the lower court.

76. During the appellate proceedings, and as discussed further below, six world-renowned human rights and anti-corruption advocates submitted an amici curiae brief, concluding that “[i]f the facts regarding attorney and judicial misconduct as found by the District Court are accurate in whole or significant part, the conduct of the litigation in Ecuador cannot be excused in the name of human rights.”¹⁰⁰

77. On August 8, 2016, the Second Circuit Court of Appeal unanimously upheld the District Court opinion. The Circuit Judges who issued the opinion were Judge Amalya L. Kears, a judge who has been sitting on the Second Circuit for over 37 years,¹⁰¹ Judge Barrington D. Parker, who was appointed to the Second Circuit in 2001 and practiced law for over 30 years before that,¹⁰² and Judge Richard C. Wesley, who served as a Judge on the New

⁹⁸ *Id.* at 385-86 (emphasis added).

⁹⁹ **Exhibit 60**, Second Circuit Decision, at 74-75.

¹⁰⁰ **Exhibit 51**, [REDACTED] at 29.

¹⁰¹ **Exhibit 67**, Biography of Hon. Amalya L. Kears, available at <http://www.ca2.uscourts.gov/judges/bios/alk.html>.

¹⁰² **Exhibit 68**, Biography of Hon. Barrington D. Parker, available at <http://www.ca2.uscourts.gov/judges/bios/bdp.html>.

York Court of Appeals and the New York Supreme Court before his appointment to the Second Circuit in 2003.¹⁰³

78. In a 127-page opinion, these judges unanimously found that the lower court’s judgment was amply supported by the evidence. The Second Circuit held that “the record in the present case reveals a parade of corrupt actions by the [Lago Agrio Plaintiffs]’ legal team, including coercion, fraud, and bribery, culminating in the promise to Judge ██████ of \$500,000 from a judgment in favor of the [Lago Agrio Plaintiff]s.”¹⁰⁴ The Second Circuit highlighted the facts that it found most compelling by excerpting and emphasizing passages from Judge Kaplan’s decision. Among those findings was the revelation that one of the Lago Agrio Plaintiffs’ attorneys urged Mr. ██████ to conceal emails evidencing their corrupt scheme, saying that doing so would be “potentially devastating in Ecuador (apart from destroying the proceeding, all of us, your attorneys, might go to jail).”¹⁰⁵ As the Second Circuit explained, the RICO defendants chose not to challenge the “sufficiency of the evidence to support the district court’s factual findings,”¹⁰⁶ despite the fact that they could have done so.¹⁰⁷ And contrary to the allegation in the OHCHR Letter,¹⁰⁸ the Second Circuit did engage seriously with the jurisdictional and legal challenges raised by the RICO defendants on appeal—the Second Circuit devoted more than 50 pages of its 127-page opinion to discussing the merits of the appellants’ legal arguments.¹⁰⁹

¹⁰³ **Exhibit 69**, Biography of Hon. Richard C. Wesley, available at <http://www.ca2.uscourts.gov/judges/bios/rcw.html>.

¹⁰⁴ **Exhibit 60**, Second Circuit Decision, at 85.

¹⁰⁵ **Exhibit 60**, Second Circuit Decision, at 40 (quoting an email reprinted in the lower court decision) (emphasis provided by the Second Circuit).

¹⁰⁶ *Id.*, at 3, 10.

¹⁰⁷ Under U.S. federal law, a court of appeals may set aside the factual findings made in a bench trial if the appellant demonstrates that those findings are “clearly erroneous.” **Exhibit 64**, Fed. R. Civ. P. 52(a)(6). Thus, the RICO defendants could have appealed the factual findings in the RICO District Court Opinion by submitting evidence to the Second Circuit in order to show that the court’s findings in the New York Judgment were erroneous. That they chose not to do so further confirms that no such evidence exists and that the factual findings in the New York Judgment are correct and supported by the evidence produced during the seven-week trial.

¹⁰⁸ OHCHR Letter, at 3.

¹⁰⁹ **Exhibit 60**, Second Circuit Decision, at 74-127.

79. In reaching its decision, the Second Circuit was cognizant of Chevron’s parallel efforts to overturn the Lago Agrio Judgment and of the Ecuadorian courts’ deferral to the U.S. courts hearing the RICO actions. Specifically, the Second Circuit highlighted the Ecuadorian National Court of Justice’s statement that “it is clear that, by preserving the rights and actions of the parties, the court acknowledges the lack o[f] jurisdiction to decide whether or not there has been procedural fraud.”¹¹⁰ Based on this opinion, the Second Circuit concluded that the “Ecuadorian courts have expressly disclaimed jurisdiction to address the corruption claims” and that “international comity is not an obstacle to the present District Court Judgment.”¹¹¹

80. Notably, contrary to the allegations contained in the OHCHR Letter,¹¹² the District Court and the Second Circuit did not find that the Lago Agrio Judgment should be treated as unenforceable in all enforcement jurisdictions outside the United States. Rather, the Second Circuit upheld the nationwide injunction in the United States on the grounds that it was confined to the United States and applied only to Mr. [REDACTED] and the named Lago Agrio Plaintiffs. Second, the Second Circuit upheld the constructive trust on the grounds that it targeted the fraud allegations “on which the Ecuadorian courts have essentially deferred to the courts of the United States.”¹¹³

81. Finally, and contrary to the information contained in the OHCHR Letter, Judge Kaplan did not “allow[] Chevron to reinstate a damages claim for \$32 million USD in attorney’s fees after the trial.”¹¹⁴ Judge Kaplan has not yet ruled on Chevron’s request for attorneys’ fees.¹¹⁵ The claim does not relate to any damages claim for purposes of the RICO Act against the Lago Agrio Plaintiffs, but rather recovery of the attorneys’ fees incurred by Chevron in litigating the RICO case, which the RICO statute itself permits. After Judge Kaplan issued his opinion, Chevron filed a motion requesting an award of attorneys’ fees.¹¹⁶ This request is based

¹¹⁰ *Id.*, at 116 (emphasis in original) (quoting, **Exhibit 40**, Opinion of the Ecuadorian National Court of Justice, at 120).

¹¹¹ *Id.*, at 116.

¹¹² OHCHR Letter, at 3.

¹¹³ **Exhibit 60**, Second Circuit Decision, at 115

¹¹⁴ OHCHR Letter, at 3.

¹¹⁵ OHCHR Letter, at 3.

¹¹⁶ **Exhibit 44**, [REDACTED] at 1.

on the express language of the RICO Act, which permits successful RICO plaintiffs to recover attorneys' fees. On April 29, 2014, Judge Kaplan deferred determination of Chevron's motion pending the outcome of the defendants' appeal.¹¹⁷

82. After the Second Circuit resolved the appeal in Chevron's favor, Chevron renewed its motion for attorneys' fees.¹¹⁸ Judge Kaplan once again rejected this motion, choosing to defer decision on attorneys' fees until the United States Supreme Court had reached a resolution on the petition for a writ of certiorari.¹¹⁹ The Supreme Court only reached its resolution very recently, on June 19, 2017, when it denied Mr. [REDACTED] and another Plaintiffs' representative's petition for a writ of certiorari.

83. On July 17, 2017, Judge Kaplan ordered briefing on the reasonableness of the attorneys' fees that Chevron seeks to recover. This briefing will be completed by September 11, 2017, and Judge Kaplan will rule on the motion of recovery of attorneys' fees thereafter. None of this is improper. Judge Kaplan appropriately waited for the conclusion of the RICO proceedings through the appellate courts, and the RICO Act authorizes successful claimants to recover the fees incurred in pursuing the RICO action.

D. ENFORCEMENT PROCEEDINGS LAUNCHED BY THE COUNSEL FOR THE LAGO AGRIO PLAINTIFFS

84. Although the information noted in the OHCHR Letter gives the appearance that the Lago Agrio Plaintiffs lack adequate legal representation, and have had to incur attorneys' fees at "great personal expense,"¹²⁰ this is not the case. Notably, the Lago Agrio Plaintiffs have funded their litigation efforts with tens of millions of dollars of money from lawyers and litigation investors.¹²¹ In particular, the Lago Agrio Plaintiffs received US\$ 7 million from [REDACTED] US\$ 4 million from [REDACTED] (who also had committed to providing

¹¹⁷ *Id.*, at 2.

¹¹⁸ **Exhibit 62**, *Chevron Corp. v. [REDACTED]* 11 Civ. 0691 (LAK), Order (S.D.N.Y. Nov. 9, 2016), at 1.

¹¹⁹ *Id.*

¹²⁰ See OHCHR Letter, at 2, 3 (stating, for example, that "[g]iven the size of the legal team representing the Ecuadorian parties, reviewing all the exhibits and objecting them [in the RICO proceeding] was impossible").

¹²¹ The Lago Agrio Litigation was funded by several individuals and entities including [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

two additional tranches of US\$ 5.5 million each); and US\$ 23 million from (Mr. DeLeon) (all of whom subsequently withdrew their involvement in the Lago Agrio Litigation after the evidence of fraud and corruption came to light).¹²²

85. The Lago Agrio Plaintiffs and their representatives, including Mr. Donziger engaged legal counsel to defend them in the RICO litigation, including, at different stages, (a) [REDACTED], (b) [REDACTED], (c) [REDACTED], (d) [REDACTED], (e) [REDACTED], (f) [REDACTED], (g) [REDACTED], (h) [REDACTED], (i) [REDACTED], (j) [REDACTED], (k) [REDACTED], and (l) [REDACTED].

86. Additionally, the Lago Agrio Plaintiffs engaged legal counsel to file and pursue enforcement proceedings against Chevron’s assets in Argentina, Brazil, and Canada, including:

- In Argentina, the Lago Agrio Plaintiffs initially engaged [REDACTED] founding partner of law firm [REDACTED]. Mr. [REDACTED] withdrew his representation on April 18, 2016, a few days after the Argentine Prosecutor recommended that the Judgment not be recognized in Argentina which took place on March 30, 2016.¹²³ The Lago Agrio Plaintiffs are currently represented in Argentina by [REDACTED] a former Court of Appeals Judge.
- In Brazil, the Lago Agrio Plaintiffs are represented by [REDACTED]. That firm is ranked by Chambers and Partners as a Band 1 firm for litigation and arbitration.
- In Canada, the Lago Agrio Plaintiffs are represented by [REDACTED]. According to its profile in Chambers & Partners, the firm is “[w]idely recognised as Canada’s leading litigation practice” and is ranked by Chambers & Partners as Band 3 for Dispute Resolution and Class Actions.

¹²² Exhibit 49, RICO District Court Opinion, at 169, 174.

¹²³ See Exhibit 80, Argentine Public Prosecutor Opinion, Mar. 30, 2016; Exhibit 59, *Aguinda v. Chevron Corp.*, Civ. Ct. 61, Order Directing Service on Plaintiffs’ Counsel Motion to Withdraw, Apr. 18, 2016.

87. Despite the evidence and findings of fraud by multiple courts in the United States, counsel for the Lago Agrio Plaintiffs have pursued enforcement actions in Argentina, Brazil, and Canada. A brief summary of the status of each is provided below:

1. Enforcement Proceedings in Argentina

88. In October 2012, counsel for the Lago Agrio Plaintiffs sought to freeze the assets of Chevron's subsidiaries in Argentina. Initially, Argentine judge for the Commercial Court of Justice in Buenos Aires ordered the freezing of Chevron's Argentine subsidiaries' assets, including their bank accounts.¹²⁴ The court garnished a large part of those subsidiaries' revenues for several months. However, the Argentine Supreme Court lifted the freeze in June 2013.¹²⁵

89. Separately, on November 21, 2012, counsel for the Lago Agrio Plaintiffs filed an exequatur complaint in Argentina seeking recognition of the Lago Agrio Judgment.¹²⁶ Upon request from the court, on March 30, 2016, Argentina's Public Prosecutor issued an opinion finding that the Lago Agrio Judgment was tainted by fraud and, as a result, recommended to the trial court that the Lago Agrio Judgment should not be recognized because doing so would violate Argentine public policy.¹²⁷ On December 20, 2016, the Public Prosecutor issued a second opinion in which the Public Prosecutor ratified his prior opinion.¹²⁸ The matter is still pending before the Argentine courts of first instance.

2. Enforcement Proceedings in Brazil

90. On June 27, 2012, counsel for the Lago Agrio Plaintiffs sought to enforce the Judgment, against Chevron in Brazil. Brazil's highest non-constitutional court, the Superior Tribunal de Justiça, is presently hearing the enforcement action. On May 11, 2015, the Federal Prosecutor assigned to the case rendered an opinion (published on May 13, 2015) recommending that the Superior Tribunal de Justiça not recognize the Lago Agrio judgment because of the fraud

¹²⁴ See **Exhibit 35**, *Aguinda v. Chevron Corp.*, Order, Argentine Supr. Ct. of Justice, June 4, 2013.

¹²⁵ *Id.*

¹²⁶ **Exhibit 26**, *Aguinda v. Chevron Corp.*, Nat'l Civ. Tr. Ct. (Arg.), Exequatur Complaint, Nov. 21, 2012.

¹²⁷ **Exhibit 80**, Argentine Public Prosecutor Opinion, Mar. 30, 2016.

¹²⁸ **Exhibit 81**, Argentine Public Prosecutor Opinion, Dec. 20, 2016.

and corruption based on the voluminous evidence in the case record before the court.¹²⁹ The Federal Prosecutor affirmed the

impossibility of validating this [Lago Agrio] judgment, not just by the Brazilian courts, but - obiter dictum - in any other foreign jurisdiction, whether in a Democratic Country with the Rule of Law or not. This is because the documents that make up this procedure contain countless elements that indicate the great likelihood that the decision for which recognition is being sought was the result of a series of frauds.¹³⁰

91. Because the Lago Agrio judgment was procured by fraud—as the RICO District Court found and the Federal Prosecutor recognized—the Federal Prosecutor concluded that it violates Brazilian public order and good morals, as well as international public order. On October 5, 2016, and per the Court’s request, a different Federal Prosecutor issued an eleven-page opinion recommending revocation of free legal aid (in forma pauperis) status.¹³¹ The recognition action remains pending in Brazil.

3. Enforcement Proceedings in Canada

92. On May 30, 2012, counsel for the Lago Agrio Plaintiffs sought enforcement of the Judgment in Canada against Chevron and certain Chevron subsidiaries.¹³² On May 1, 2013, Justice David Brown of the Ontario Superior Court of Justice stayed the action, finding that while the court had jurisdiction over the Chevron defendants, it was unlikely that the Lago Agrio Plaintiffs legally could attach properties owned by Chevron subsidiaries under Canadian law.¹³³ In December 2013, the Ontario Court of Appeal lifted the stay.¹³⁴ On April 3, 2014, the Supreme Court of Canada agreed to hear Chevron’s appeal from the Court of Appeal’s decision. On September 4, 2015, the Supreme Court of Canada denied the jurisdictional challenges to the

¹²⁹ **Exhibit 53**, *Aguinda v. Chevron Corp.*, Opinion No. 2811/2015 regarding Contested Foreign Judgment No. 8.542 – Special Court, Federal Prosecution Service of the Attorney General of Brazil, May 11, 2015, at 16 (“In light of the foregoing, the opinion of the Federal Prosecutor’s Office is against recognition of the contested foreign judgment”).

¹³⁰ *Id.*

¹³¹ **Exhibit 61**, *Chevron Corp. v. Aguinda*, Petition No. 9.815/DF, Opinion, Federal Prosecutor’s Office – Office of the Attorney General of Brazil, Oct. 5, 2016.

¹³² **Exhibit 23**, *Yaiguaje v. Chevron Corp.*, Statement of Claim, Ontario Superior Court of Justice, May 30, 2012.

¹³³ **Exhibit 33**, *Yaiguaje v. Chevron Corp.*, 2013 ONSC 2527, Superior Court of Justice of Ontario, May 1, 2013.

¹³⁴ **Exhibit 41**, *Yaiguaje v. Chevron Corp.*, 2013 ONCA 758, Court of Appeal for Ontario, Dec. 17, 2013.

Canadian enforcement action made by Chevron Corporation and Chevron Canada (both named defendants in the action in Canada).¹³⁵ This decision held that the Ontario trial court had sufficient jurisdiction to entertain further proceedings in the recognition action.¹³⁶ The Canadian Supreme Court, however, made clear that the underlying issue of the Lago Agrio Plaintiffs' counsel's fraud in their procurement of the Ecuadorian decision was not before the Supreme Court of Canada because the Canadian proceedings so far have dealt exclusively with the question of jurisdiction. In fact, the Canadian Supreme Court clarified that all available defenses to recognition and enforcement (including that recognition and enforcement may be contrary to Canadian public policy) remained available to Chevron.

93. The Lago Agrio Plaintiffs have recently appealed certain decisions rendered by the Canadian trial court dismissing the enforcement case against a Chevron subsidiary. A hearing is scheduled for October 10-11, 2017. Chevron remains confident that the Judgment will not be recognized in Canada because the Judgment is not entitled to recognition or enforcement in any jurisdiction that respects the rule of law.

E. GIBRALTAR ACTIONS FILED AGAINST THE LAGO AGRIO REPRESENTATIVES AND THEIR FUNDERS

94. Chevron also filed lawsuits in Gibraltar against some of the Lago Agrio Plaintiffs' representatives and their funders, including [REDACTED] [REDACTED]¹³⁷ and [REDACTED] a company set up to receive and distribute any proceeds obtained from the Judgment.¹³⁸ Ultimately [REDACTED] and [REDACTED] both settled the lawsuits with Chevron in light of the evidence of fraud and

¹³⁵ **Exhibit 55**, *Chevron Corp. v. Yaiguaje*, 2015 SCC 42, Supreme Court of Canada, Sept. 4, 2015.

¹³⁶ *Id.* at ¶¶ 94-95.

¹³⁷ [REDACTED] is an [REDACTED] company that funded and supported the enforcement of the Lago Agrio Litigation. *See* [REDACTED]

¹³⁸ [REDACTED] is a private company incorporated under the laws of Gibraltar, which is owned by Lago Agrio Plaintiffs' representatives. Its corporate purposes are to pay the expenses of the Lago Agrio Plaintiffs' team, to procure additional funding, to issue shares to additional lawyers, advisors and funders, and to receive and distribute the proceeds of the Lago Agrio Judgment. [REDACTED]

corruption that gave rise to the Lago Agrio Judgment, and [REDACTED] defaulted.¹³⁹

95. When deciding the defendants’ motion seeking to strike out Chevron’s complaint, Justice Butler, writing for the Supreme Court of Gibraltar, found that “[p]articularly grave and far-reaching allegations of fraud are made by the Claimant [Chevron] and it has seemed to me that it was right in such circumstances to satisfy myself that there is at least a prima facie case to support those allegations before allowing the matter to proceed.”¹⁴⁰ Justice Butler also noted that the Ecuadorian appellate court specifically declined to consider or render detailed findings regarding Chevron’s serious allegations of fraud, stating that it was “surprising on the face of it that at least a rehearing was not ordered.”¹⁴¹ On December 9, 2015, the Court issued an order for judgment and final injunction against [REDACTED].¹⁴²

F. STATUS OF ECUADORIAN CRIMINAL INVESTIGATIONS RELATED TO THE LAGO AGRIO FRAUD

96. Since 2009, U.S. counsel Tim Cullen of the law firm Jones Day has sent a series of letters to Ecuador’s Prosecutor General and local prosecutors on behalf of Chevron. The purpose of these letters was to summarize the evidence of the Lago Agrio Plaintiffs’ legal team’s misconduct, provide relevant objective evidence, and request that an investigation take place into the fraud and corruption that gave rise to the Lago Agrio Judgment. The letters described, among other things: (i) a bribery solicitation scheme involving then-Judge Juan Núñez who was then presiding over the Lago Agrio Litigation; (ii) the Lago Agrio Plaintiffs’ counsel’s collusion with court-appointed “neutral” expert Richard Cabrera; (iii) the falsification of [REDACTED] expert report; and (iv) the Lago Agrio Plaintiffs’ counsel’s role in ghostwriting the trial court judgment.

97. In response, Ecuadorian authorities opened three criminal investigations:

¹³⁹ E [REDACTED]
[REDACTED]

¹⁴¹ *Id.* ¶ 48 (vi).

¹⁴² **Exhibit 56**, *Chevron Corp. v. Amazonia Recovery Ltd.*, Claim No. 2014- C-110, Order for Judgment Including Final Injunction, Supreme Court of Gibraltar, Dec. 9, 2015. [REDACTED]

- Preliminary Investigation No. 107-2009-DRR: Initiated by the Prosecutor General in 2009, the preliminary investigation focused on [REDACTED] potential criminal liability for breach of legal duty, his participation in a bribery solicitation scheme, and extortion. Evidence of [REDACTED] participation in the scheme was recorded by Messrs. [REDACTED] and [REDACTED] prospective environmental remediation contractors, and turned over to Chevron’s attorneys in 2009. Despite the unrefuted evidence provided by Chevron, on August 19, 2013, the Prosecutor General petitioned the National Court of Justice to close the investigation. The National Court of Justice granted the request on September 30, 2013, closing the investigation over Chevron’s objections.
- Preliminary Investigation No. 235-2010: Initiated by the Provincial Prosecutor for Sucumbíos in 2010, the preliminary investigation focuses on the Lago Agrio Plaintiffs’ counsel’s ghostwriting of (i) the Cabrera Report and supplemental report, (ii) official communications filed by Cabrera, and (ii) the Charles Calmbacher’s report. Chevron also submitted evidence of the Lago Agrio Plaintiffs’ counsel’s ghostwriting of the Lago Agrio Judgment. The investigation is pending, but formal charges have not been filed (notwithstanding the evidence that has been filed with the prosecutors).
- Preliminary Investigation No. 284-2010: Initiated by the Provincial Prosecutor for Sucumbíos in 2010, the preliminary investigation focuses on Richard Cabrera’s and [REDACTED] perjury regarding the drafting and filing of the Cabrera Report and Cabrera’s affirmations of neutrality to the court. Chevron also presented evidence of the Lago Agrio Plaintiffs’ counsel’s acts in furthering and/or concealing Cabrera’s false statements. The investigation is pending, but formal charges have not been filed (notwithstanding the evidence that has been filed with the prosecutors).

98. To date, the Ecuadorian prosecutorial authorities have failed to conduct a meaningful investigation into the Lago Agrio Plaintiffs’ counsel’s misconduct. In fact, on September 11, 2013, the Prosecutor General refused to receive further evidence of the Lago Agrio Plaintiffs’ counsel’s fraud.

V. THE ARBITRATION

99. On September 23, 2009, Chevron and TexPet sought relief against Ecuador under the United States-Ecuador Bilateral Investment Treaty, which requires Ecuador to afford certain protections to U.S. investors—including due process, fair and equitable treatment, and rights guaranteed by international law.¹⁴³ In the BIT Arbitration, Chevron and TexPet asserted that

¹⁴³ On December 3, 2009, Ecuador and the Lago Agrio Plaintiffs sought to enjoin the BIT Arbitration proceedings on the ground that they conflicted with Texaco, Inc.’s representations in *Aguinda*. See **Exhibit 06**, *Republic of*

TexPet (including its parent company, affiliates and principals) had been released from all environmental impact arising out of the former Consortium’s activities and that Ecuador and Petroecuador were responsible for any remaining and future remediation work. Chevron and TexPet introduced the evidence of the fraud and corruption used to procure the Lago Agrio Judgment into the BIT Arbitration record as that evidence emerged through related litigation. The Permanent Court of Arbitration convened an arbitral tribunal to adjudicate these claims.

100. After the arbitral tribunal determined that it had jurisdiction, it divided the merits phase into three “tracks”: (i) Track 1 on the scope and legal effect of the Settlement and Release Agreements; (ii) Track 2 on Chevron’s treaty and international-law claims for fraud and due-process violations during the Lago Agrio Litigation, and non-monetary relief; and (iii) Track 3 on monetary damages. After a number of evidentiary hearings, the tribunal issued several interim orders and partial awards, cited below, directing Ecuador to prevent enforcement or recognition of the Lago Agrio Judgment, pending the tribunal’s decision on the merits of the BIT Arbitration.¹⁴⁴

101. On February 9, 2011, the tribunal ordered Ecuador to take all measures at its disposal to suspend enforcement or recognition of any judgment that the Lago Agrio Court would render against Chevron.¹⁴⁵

102. On January 25, 2012, the tribunal reiterated—this time in an Interim Award—that Ecuador should take all measures at its disposal to suspend or cause to be suspended the

Ecuador v. Chevron Corp., 09 Civ 9958, Petition to Stay Arbitration, (S.D.N.Y. Dec. 3, 2009). The United States District Court for the Southern District of New York and the United States Second Circuit Court of Appeals rejected that argument and dismissed the request. See **Exhibit 07**, *Republic of Ecuador v. Chevron Corp.*, 09 Civ. 9958 and 10 Civ. 316 (LBS), Memorandum & Order (S.D.N.Y. Mar. 16, 2010), at 4; **Exhibit 11**, *Republic of Ecuador v. Chevron Corp.*, 638 F.3d 384, 398 (2d Cir. 2011).

¹⁴⁴ **Exhibit 17**, *Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador*, PCA Case No. 2009-23, First Interim Award on Interim Measures (Jan. 25, 2012); **Exhibit 20**, *Chevron Corp. and Texaco Petroleum Co.*, PCA Case No. 2009-23, Second Interim Award on Interim Measures (Feb. 16, 2012); **Exhibit 21**, *Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador*, PCA Case No. 2009-23, Third Interim Award on Jurisdiction and Admissibility (Feb. 27, 2012); **Exhibit 27**, *Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador*, PCA Case No. 2009-23, Fourth Interim Award on Interim Measures (Feb. 7, 2013).

¹⁴⁵ **Exhibit 12**, *Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador*, PCA Case No. 2009-23, Tribunal’s Order on Interim Measures § E (Feb. 9, 2011).

recognition or enforcement of the Judgment rendered by the Lago Agrio Court against Chevron both within and outside Ecuador.¹⁴⁶

103. On February 16, 2012, after an emergency two-day hearing, and after considering prima facie evidence of fraud, the tribunal directed Ecuador to take “all measures necessary to suspend or cause to be suspended the recognition or enforcement both within and outside Ecuador of the Ecuadorian appellate judgment.”¹⁴⁷

104. On February 7, 2013, the tribunal concluded that Ecuador had violated the tribunal’s directives and the international law due to its failure to comply with the foregoing awards.¹⁴⁸

105. On September 17, 2013, the tribunal issued its First Partial Award, concluding that both Chevron and TexPet were “Releasees” under the Settlement and Release Agreements.¹⁴⁹ It also concluded that while the scope of the Settlement and Release Agreements would not extend to any environmental claim made by an individual for personal injury to himself or to his personal property, the Agreements conclusively resolved any collective or diffuse claim made against the companies by Ecuador under the Ecuadorian Constitution or by any individual not claiming personal harm.¹⁵⁰

106. A three-week Track 2 hearing took place in 2015 concerning the facts of fraud and corruption in the Lago Agrio Litigation, as well as the legal bases for Chevron’s non-monetary remedies. The tribunal also conducted a site visit in the Lago Agrio area. A decision on Track 2 is pending.

107. Ecuador unsuccessfully sought to set-aside the interim measures awards and the partial arbitral awards. On January 7, 2014, Ecuador asked the District Court of the Hague in the Netherlands (the legal seat of the BIT Arbitration) to set aside all of the tribunal’s awards. Ecuador argued, inter alia, that (i) there is no valid arbitration agreement; (ii) the awards violate

¹⁴⁶ *Id.* § VI(2)(i).

¹⁴⁷ *Id.* at ¶ 4.

¹⁴⁸ *Id.* at §IV(1).

¹⁴⁹ **Exhibit 38**, *Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador*, PCA Case No. 2009-23, First Partial Award on Track 1 ¶ 112 (Sept. 17, 2013).

¹⁵⁰ *Id.*

public policy; and (iii) the arbitrators did not comply with their mandate.¹⁵¹ On January 20, 2016, a three-member panel of the Hague District Court denied Ecuador's petition and ordered it to pay the costs.¹⁵² That court concluded that "none of the grounds for the setting aside of the arbitral awards put forward by Ecuador hit their mark."¹⁵³ On July 18, 2017, the Hague Court of Appeal denied Ecuador's appeal seeking to set aside all of the tribunal's awards to date.

VI. CHEVRON'S LEGITIMATE DEFENSE AGAINST FRAUDULENT LITIGATION DOES NOT INFRINGE ON HUMAN RIGHTS

108. Chevron's opposition to enforcement of the fraudulent Lago Agrio Judgment does not infringe on human rights in any way. Chevron seeks only to protect itself from the enforcement of a judgment that numerous courts and justice officials have now confirmed resulted from fraud and corruption. The OHCHR's Letter references allegations that Chevron has engaged in an "abusive" legal strategy in order to "demobilize human rights defenders."¹⁵⁴ But, as demonstrated above, this is not the case. Chevron respects the role of human rights defenders, who the United Nations Office of the High Commissioner for Human Rights defines as "people who, individually or with others, act to promote or protect human rights." The unfortunate reality is that the Lago Agrio Plaintiffs' representatives, and in particular, the lead counsel and advisors, especially lead U.S. counsel Mr. [REDACTED] have abused their responsibilities as purported human rights defenders and violated their clients' trust. Indeed, leading human rights experts have denounced the Lago Agrio Plaintiffs' representatives for committing human rights violations through the fraudulent activity and corruption used to procure the Lago Agrio Judgment in violation of due process of law and the right to a fair trial.

109. The Lago Agrio Plaintiffs' representatives' purported defense of human rights is belied by an inter-creditor agreement, signed by an organization that they created, in which the organization promised to put any enforcement proceeds from the Lago Agrio Judgment immediately into a separate escrow account with immediate and priority payment going to the

¹⁵¹ See **Exhibit 57**, *Republic of Ecuador v. Chevron Corp.*, Case No. C/09/477457 / HA ZA 14-1291, Judgment, District Court of the Hague, Jan. 20, 2016, § 3.2.

¹⁵² *Id.* §§ 5.1-5.3.

¹⁵³ *Id.* § 4.41.

¹⁵⁴ OHCHR Letter, at 5.

Lago Agrio Plaintiffs' counsel and offshore funders. Mr. [REDACTED] the lead U.S. counsel for the Lago Agrio Plaintiffs, has testified that he alone stands to receive US\$ 600 million from the Lago Agrio Judgment.¹⁵⁵

110. That agreement contains a distribution waterfall setting out the nine categories of beneficiaries that will receive payments from the escrow account. The Lago Agrio Plaintiffs are ninth out of nine in that waterfall, but only if funds remain, leaving in doubt how much of any proceeds actually would pass to the indigenous people of Ecuador.

111. Of particular note for the Special Rapporteur on the Rights of Indigenous Peoples, it should be noted that one of the indigenous peoples supposedly represented by Mr. [REDACTED] and his co-counsel, namely the Huaorani indigenous people, have also sued the lawyers for the Lago Agrio Plaintiffs for fraud. They alleged that the lawyers committed fraud, and that contrary to what the lawyers may have represented, the Huaorani indigenous people never authorized the lawyers to represent them in the Lago Agrio Litigation. They also asserted that the lawyers brought the lawsuit to enrich themselves and not to obtain reparations for the Huaorani people.¹⁵⁶

A. THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

112. On February 9, 2012, the Lago Agrio Plaintiffs' representatives attempted to rely on alleged human rights violations to persuade the Inter-American Commission on Human Rights to grant precautionary measures sufficient to assure that Ecuador would "take all appropriate measures to affirmatively protect the [Lago Agrio Plaintiffs'] rights" to enforcement of the Lago Agrio Judgment.¹⁵⁷ They contended that failure to enforce the Judgment would cause "serious and urgent" harm to their "core rights to life, physical integrity, and health, as well as their rights to a fair trial, to judicial protection (including the determination and enforcement of remedies), and to equal treatment under the law."¹⁵⁸

¹⁵⁵ **Exhibit 49**, RICO District Court Opinion, at 259.

¹⁵⁶ **Exhibit 77**, [REDACTED] **Exhibit 54**, [REDACTED]

¹⁵⁷ **Exhibit 18**, Request for Precautionary Measures Indicated to the Republic of Ecuador, Inter-American Commission on Human Rights, Feb. 9, 2012, at 2, 6.

¹⁵⁸ *Id.* at 1.

113. Although this action was brought against Ecuador, it concerned the Lago Agrio Judgment against Chevron. Accordingly, on February 22, 2012, Chevron filed an *amicus curiae* brief before the Inter-American Commission. The brief was submitted not only by Chevron's counsel (which included Professor James Crawford SC, who is now a sitting justice on the International Court of Justice), but also by Professor Douglass Cassel of the University of Notre Dame School of Law, an internationally-renowned scholar on human rights.¹⁵⁹ Among other points, the *amicus* brief observed that there exists no human right to enforce a judgment obtained by fraud.

114. On February 23, 2012, the Inter-American Commission asked the Lago Agrio Plaintiffs to submit evidence, including medical certificates, of any current health impacts relating to their allegations. The Commission noted that without such evidence, it would close the case. On March 2, 2012, the Lago Agrio Plaintiffs' representatives responded by withdrawing their request.¹⁶⁰

B. EXPERTS HAVE DENOUNCED THE FRAUD COMMITTED BY THE LAGO AGRIO PLAINTIFFS' REPRESENTATIVES

1. Professor Douglass Cassel's Letter to the UN Human Rights Commission Working Group

115. On July 25, 2013, Professor Douglass Cassel, an expert in international human rights, wrote a letter to the UN Human Rights Commission Working Group (the "Working Group") on the issue of human rights and transnational corporations and other business enterprises, describing the fraud committed against Chevron in the Ecuadorian courts. Professor Cassel is Professor of Law and Notre Dame Presidential Fellow, and was at the time also Director of the Center for Civil and Human Rights, at Notre Dame Law School.¹⁶¹ He is a renowned specialist in international human rights law, and has served as a consultant on human rights to a number of non-governmental organizations in addition to the United Nations, the

¹⁵⁹ *Id.* Professor Cassel publicly acknowledged that he accepted fees from Chevron for his work on the *amicus* brief. See **Exhibit 70**, Resume of Professor Douglass Cassel, Dec. 2016, available at <http://law.nd.edu/assets/220467/fullsize/resgenupdt.pdf> ("Professor Cassel Resume").

¹⁶⁰ **Exhibit 22**, Letter from the Lago Agrio Plaintiffs' Legal Representatives to the Inter-American Commission on Human Rights, Mar. 2, 2012.

¹⁶¹ **Exhibit 70**, Professor Cassel Resume.

Organization of American States, the U.S. Department of State and the Ford Foundation.¹⁶² At the time, the Working Group was drafting recommendations on effective remedies for victims of business-related human rights abuses.

116. Professor Cassel wrote to the Working Group in order to draw “attention to an issue not yet fully addressed” in the Working Group’s work,¹⁶³ namely, “the need to ensure that judicial mechanisms for redress of business-related human rights complaints meet international standards of ‘impartiality, integrity and ability to accord due process.’”¹⁶⁴ This need, Professor Cassel noted, “is highlighted by the lack of judicial integrity in the environmental litigation in Lago Agrio, Ecuador that led to an \$18.2 billion judgment against Chevron.”¹⁶⁵

117. Professor Cassel cautioned that “some well-meaning but not fully informed observers may urge the Working Group to treat the Chevron case as ‘emblematic’ of barriers facing victims in legitimate litigation. Without carefully evaluating the evidence of fraud, the Working Group should avoid embracing the case as emblematic.”¹⁶⁶

118. After reviewing the facts of the case in detail, Professor Cassel concluded in his letter to the UN Working Group “that the conduct of the litigation by plaintiffs’ lead lawyers was fraudulent” and that “[h]uman rights advocates should not accept the judgment at face value, without carefully examining the extensive evidence of fraud and criminal misconduct.”¹⁶⁷ Professor Cassel added that the case illustrates that “illegitimate judicial proceedings achieve nothing but delay, diversion of resources,” and, perhaps most importantly, “discrediting of any legitimate human rights claim.”¹⁶⁸ Illegitimate judicial proceedings, he cautioned, “put at risk the important ongoing efforts by the Working Group and others to persuade business to embrace its human rights responsibilities.”¹⁶⁹

¹⁶² *Id.*

¹⁶³ **Exhibit 36**, Letter from Professor Cassel to the UN Human Rights Commission Working Group, July 25, 2013, at 1.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*, at 4.

¹⁶⁷ *Id.*, at 2, 4.

¹⁶⁸ *Id.*, at 5.

¹⁶⁹ *Id.*, at 5.

2. Amicus Brief of Human Rights Jurists in the RICO Proceeding

119. On October 8, 2014, six international jurists who focus on the protection of human rights and anti-corruption submitted an amicus curiae brief to the Second Circuit, which was hearing the appeal of the RICO District Court Opinion against Mr. [REDACTED] and other Lago Agrio Plaintiffs' representatives.¹⁷⁰ Each of the six amici is renowned for work in the field of human rights and/or anti-corruption: (i) Allan R. Brewer Carías is a long-time Member of the Board of Directors of the Inter-American Institute of Human Rights;¹⁷¹ (ii) Kaveh Moussavi is a human rights expert and former Head of the Public Interest Law Programme at the Centre for Socio-Legal Studies of Oxford University;¹⁷² (iii) Lucinda Low is an expert in the field of U.S. and international anti-corruption laws and related international conventions, and is now also the current President of the American Society of International Law;¹⁷³ (iv) Pedro Nikken is a former Judge and President of the Inter-American Court of Human Rights;¹⁷⁴ (v) Robert Goldman is a Professor of Law and Louis C. James Scholar at American University Washington College of Law, and former President of the Inter-American Commission on Human Rights;¹⁷⁵ and (vi) Thomas Buergenthal is one of the world's leading international human rights experts, a former Judge and President of the Inter-American Court of Human Rights, member of the UN Human Rights Committee, and previously served as a judge at the International Court of Justice.¹⁷⁶

120. The amici filed this brief out of a "single, central concern: If the District Court's factual findings are accurate in whole or significant part, the corruption of the judicial process in

¹⁷⁰ See Exhibit 51, [REDACTED]

¹⁷¹ Exhibit 71, Allan R. Brewer-Carías Curriculum Vitae, available at <http://www.brewercarias.com/Resume.aspx?lang=en>.

¹⁷² Exhibit 51, [REDACTED] of American Human Rights and Anti-Corruption Jurists in Partial Support of Human Rights and Affirmance, Chevron Corp., *Douglas*, 13-26-cv-01334 (C.D. Cal. Oct. 8, 2014), in 2014, [REDACTED] signed a civil society statement calling on Chevron to comply with the Law Against Corruption. [REDACTED] Moussavi was supplied by the Institute of the RICO lawsuit.

¹⁷³ Exhibit 72, Biography of Lucinda A. Low Biography, available at http://www.steptoec.com/professionals-Lucinda_Low.pdf.

¹⁷⁴ Exhibit 51, [REDACTED] of American Human Rights and Anti-Corruption Jurists in Partial Support of Human Rights and Affirmance, Chevron Corp., *Douglas*, 13-26-cv-01334 (C.D. Cal. Oct. 8, 2014), at 11-12.

¹⁷⁵ Exhibit 73, Biography of Robert Goldman Biography, available at <https://www.wcl.american.edu/faculty/goldman/>.

¹⁷⁶ Exhibit 74, Biography of Thomas Buergenthal, available at <https://www.law.gwu.edu/thomas-buergenthal>.

Ecuador undermined human rights and corroded the rule of law.”¹⁷⁷ Moreover, the amici “categorically reject[ed] any suggestion that human rights ends can justify corrupt means.”¹⁷⁸ While the amici did not take a position on whether Judge Kaplan’s findings were accurate, they took issue with the Lago Agrio Plaintiffs’ representatives’ “plea to look the other way in the name of human rights.”¹⁷⁹ In fact, the amici argued that the factual findings underpinning Judge Kaplan’s decision, if accurate in whole or significant part, showed that it was the Lago Agrio Plaintiffs’ representatives’ actions that violated human rights:

Advocates for human rights do not advance human rights by violating them, and the corrupt pattern of fraud, extortion, and bribery described by the District Court, if accurate, denies the fundamental human rights to due process of law and a fair trial. Under international law, according to distinct legal regimes that have developed on parallel but mutually reinforcing tracks, states are not only responsible for the protection of human rights but also are required to take steps to combat corruption and address its consequences, including through remedial action. The critical point, reflected in treaties to which Ecuador and the United States are both party, and the work of international organizations of which both countries are members, is that corruption itself infringes on human rights. Human rights ends, in short, cannot be promoted through corrupt means.¹⁸⁰

121. The amici further noted that Mr. [REDACTED] and the other Lago Agrio Plaintiffs’ representatives sought to shift focus from their own human rights violations by “seek[ing] to trivialize” the District Court’s findings and “implying that they are mere distractions from the human rights claims the Ecuadorian plaintiffs asserted in Ecuador.”¹⁸¹ But the amici stressed that this “effort to sidestep those findings [of fraud] disrespects both international human rights and international anti-corruption law.”¹⁸²

¹⁷⁷ Exhibit 51, [REDACTED]

¹⁷⁸ *Id.*, at 8.

¹⁷⁹ *Id.*, at 12.

¹⁸⁰ *Id.*, at 12-13 (emphasis added).

¹⁸¹ *Id.*, at 17-18.

¹⁸² *Id.*, at 18.

122. In support of their view that the international community recognizes “that corruption endangers, if not directly violates, fundamental norms of human rights,” the amici cited numerous international or multi-national conventions, treaties, and resolutions.¹⁸³ Among those sources was a joint statement from 134 states, including the United States and Ecuador, that was reprinted in an OHCHR pamphlet entitled “The Human Rights Case Against Corruption.” That statement recognized that “corruption constitutes one of the biggest obstacles to the effective promotion and protection of human rights” and that “[e]xperience shows that [the] fight against corruption can contribute significantly to the promotion of fundamental principles of human rights and the rule of law.”¹⁸⁴

123. The amici concluded by saying that “[i]f the facts regarding attorney and judicial misconduct as found by the District Court are accurate in whole or in significant part, the conduct of the litigation in Ecuador cannot be excused in the name of human rights. On the contrary, it has done that cause a great disservice, and it should be remedied.”¹⁸⁵

VII. CONCLUSION REGARDING NON-ENFORCEMENT OF THE LAGO AGRIO JUDGMENT

124. The sections above demonstrate that Chevron has acted, and continues to act, in accordance with the rule of law to prevent enforcement of a judgment that has now been recognized (judicially and through statements and actions of those who were involved or affected by the fraudulent actions) as the product of corruption and fraud.¹⁸⁶ Chevron sought to overturn the fraudulent judgment in Ecuador by raising the issues of corruption and fraud during the appellate proceedings. However, the Ecuadorian courts refused to address these issues on appeal (and Chevron’s petition to the Constitutional Court of Ecuador regarding these issues remains pending over three-and-a-half years later). Accordingly, Chevron has challenged enforcement of the Lago Agrio Judgment in other judicial fora, which have included successfully seeking

¹⁸³ See *id.*, § II.A.

¹⁸⁴ *Id.*, at 29-30 (citing “Cross regional statement by Morocco on ‘corruption and human rights,’” Geneva, June 26, 2012, in *the Human Rights Case Against Corruption*, United Nations Human Rights – Office of the High Commissioner).

¹⁸⁵ *Id.*, at 36.

¹⁸⁶ See Sections II and III above.

equitable relief in U.S. courts to prevent the Lago Agrio Plaintiffs' representatives from profiting from their misconduct.

125. Meanwhile, the Lago Agrio Plaintiffs' representatives have employed what the U.S. District Court for the Southern District of New York has characterized as a "multi-pronged attack on Chevron, its assets, and subsidiaries in multiple jurisdictions outside the United States followed by proceedings [in the United States]."¹⁸⁷ These enforcement proceedings remain underway in multiple jurisdictions. However, as described above, the Public Prosecutors in two of these jurisdictions (Argentina and Brazil) have recommended to the national courts that it would be contrary to the public policy of these jurisdictions to recognize and enforce the Lago Agrio Judgment given the evidence of corruption and fraud, and proceedings to date also have been unsuccessful in Canada.

126. The bottom line is simple but bears repeating: human rights ends do not justify corrupt means. The fraud and corruption carried out by the Lago Agrio Plaintiffs' legal team, far from vindicating human rights, subverted human rights. Victims of human rights and environmental injuries deserve redress – but only through proceedings that comport with basic norms of fair trial and due process, and which are designed to benefit the victims, not to channel financial windfalls to corrupt lawyers. Further, as detailed in Section II above, TexPet completed its remediation activities regarding its share of environmental issues that may have arisen following the joint operations with Petroecuador in the Oriente region prior to leaving Ecuador.

VIII. CHEVRON'S POLICIES ARE IN LINE WITH THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

127. Chevron has taken active steps to ensure that its human rights policies and practices are in line with the UN Guiding Principles on Business and Human Rights (the "UN Guiding Principles"). The Special Rapporteurs have requested "information about the measures that Chevron Corporation has taken, or is considering to take, to ensure that its human rights position and further policies will be in line with the UN Guiding Principles on Business and Human Rights." As set forth below, Chevron has developed a human rights policy; recognizes

¹⁸⁷ Exhibit 49, RICO District Court Opinion, at 171.

its responsibility to respect human rights; undertakes human rights due diligence; and has established processes to remediate adverse human rights impacts that Chevron may cause or to which it may contribute.

128. Chevron's engagement with the UN Guiding Principles began during their development when Chevron participated in the stakeholder engagement process led by Special Rapporteur John Ruggie. Chevron believes that the UN Guiding Principles are a vital means to empower States to protect and business to respect human rights in ways that meet local and sectorial needs.

129. Chevron's corporate Human Rights Policy, Policy 520, was adopted in 2009, following a 2005 Human Rights Statement.¹⁸⁸ Chevron's policy applies to all employees and operations, guides the company's respect for human rights across the business, fosters greater awareness of human rights issues throughout the company and enhances its capabilities to identify and manage human rights risks. Chevron's human rights policy is consistent with the UN Guiding Principles even though it predates them.

130. As the OHCHR Letter observes, UN Guiding Principle 16 identifies certain features that characterize a robust human rights policy. Chevron's Policy 520 satisfies each of those features: Policy 520 (a) was approved at the most senior level of the business enterprise; (b) was informed by internal and external expertise; (c) stipulates Chevron's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services; (d) is publicly available; and (e) is reflected in Chevron's operational policies and procedures.

131. As part of a regular risk management program and through processes and tools embedded in Chevron's Operational Excellence Management System, Chevron systematically identifies and manages potential human rights impacts throughout its business. Chevron's human rights policy is embedded in the company's Business Conduct and Ethics Code compliance training for all employees. Various levels of training are in place to inform teams as they work to manage potential impacts in the communities where Chevron operates, the provision of security, the administration of workforce, and the procurement of products and

¹⁸⁸ **Exhibit 79**, Chevron Policy 520 ("About our human rights policy").

services. Chevron's human rights policy focuses on four areas most salient to its business: employees, security, community engagement, and suppliers.

132. Chevron believes that it has a responsibility to respect human rights and that it can play a positive role in the communities where it operates. Stakeholder engagement is a key method used to consider potential impacts and views of right holders, as recognized by the UN Guiding Principles.¹⁸⁹ At Chevron, stakeholder engagement is a continual process through which the views of individuals and groups are sought and considered in decision making. The Stakeholder Engagement Process requires that appropriate systems and plans are in place at the operational level to manage community input and issues. This process is critical to identifying and mitigating risk, fostering social and economic development in communities, and building constructive relationships with stakeholders. Listening to and engaging appropriate stakeholders improves Chevron's ability to anticipate change in its communities; avoid or manage conflict; identify emerging issues, trends, and opportunities; appreciate and respect cultural diversity; and understand key economic, environmental, and social issues that affect its decision making and performance.

133. Chevron's Stakeholder Engagement Process is based on energy industry best practices, which define stakeholder engagement and explain its importance to Chevron's business. As stakeholder engagement is practiced at both the corporate, regional, and local levels of Chevron, the process provides general guidance, principles and steps for identifying stakeholders, planning and executing an engagement process that can be scaled to local operating environments, and specific business requirements. In summary, the process requires that:

- A system is in place to identify stakeholders and to plan and execute engagement with them that promotes mutual understanding about projects, operations, facilities, and products.
- Chevron fosters ongoing two-way engagement with communities, nongovernmental organizations (NGOs), government and regulatory authorities, and other appropriate stakeholders to address potential security, safety, health, environmental, supply chain, social, human rights and other concerns.

¹⁸⁹ OHCHR Letter, at 7 ("Adequate human rights due diligence procedures must include 'meaningful consultation with potentially affected groups and other relevant stakeholders.'").

- Appropriate plans are in place and updated on a continual basis to include stakeholder engagement, issues management, and social investment.

134. Chevron identifies and manages potential right holder impacts through a variety of processes and tools that include social impact assessments and guidance for practitioners on how best to engage with Indigenous Peoples and manage land use and resettlement. Human rights due diligence assessments include potential impacts to natural resources, water use, community health, human rights and livelihoods. The information gathered through these processes is integrated into decision making on environmental, social and health issues and to identify potential community and stakeholder benefits.

135. Chevron is committed to interacting with indigenous communities in a way that respects their history, culture and customs. It carries out this commitment by following its Human Rights Policy, which sets the expectation for the company to consult with indigenous communities and understand their perspectives on Chevron projects and ongoing operations. Chevron's approach to indigenous engagement is consistent with relevant external guidelines, including the World Bank's Operational Policy and Bank Procedure on Indigenous Peoples.

136. Chevron has managed successful engagement with indigenous and native peoples in countries such as the United States, Colombia and Australia for decades. For example, through these relationships, Chevron Canada has developed innovative agreements, programs and opportunities for Aboriginal communities to directly benefit from our projects.

137. Finally, consistent with the UN Guiding Principles' guidance that "[b]usiness enterprises should establish or participate in operational-level grievance mechanisms,"¹⁹⁰ in 2016, Chevron introduced its Grievance Mechanism Guidance to encourage best practice in community feedback systems. Chevron's guidance outlines steps for operations to design or update an operational-level grievance mechanism that strives to be legitimate, accessible, predictable, equitable, transparent, and rights-compatible. The mechanism should be based on engagement and dialogue and promote continuous learning. Chevron Myanmar's webpage includes an example of an operational-level grievance mechanism.

¹⁹⁰ OHCHR Letter, at 8.

138. Chevron's commitment to respecting human rights continues to advance. As part of this process, Chevron regularly reviews its policy, processes and practices with its internal leadership and with external human rights experts. Similarly, Chevron's reporting has continually evolved to align more closely with the UN Guiding Principles reporting framework.

IX. OVERALL CONCLUSION

139. Chevron reiterates that it is grateful for the opportunity to respond to the concerns raised by the Special Rapporteurs in the OHCHR Letter, and to correct the incorrect or misleading information that has been provided by the third parties to the Special Rapporteurs.

140. Chevron commends the Special Rapporteurs on the important and meaningful work that they undertake.

141. Chevron remains at the disposal of the Special Rapporteurs in the event the Special Rapporteurs require further written submissions or an in-person meeting.

Respectfully submitted,



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August 4, 2017

**SPECIAL PROCEDURES BRANCH
OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS**

**RESPONSE TO THE COMMUNICATIONS FROM THE UNITED
NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER
DATED JUNE 21, 2017 (REF/AL 10/2017)**

INDEX OF EXHIBITS¹

Exhibit No.	Date (MM/DD/YY)	Document
01.	11/03/1993	Complaint, <i>Aguinda v. Texaco, Inc.</i> , 93 Civ 7527 (S.D.N.Y. Nov. 3, 1993) available from the U.S. District Court for the Southern District of New York
02.	05/04/1995	Contract for Implementing of Environmental Remedial Work and Release from Obligations, Liability and Claims among the Republic of Ecuador, Petroecuador and Texaco Petroleum Co., May 4, 1995 (the “1995 Settlement Agreement”) available at http://theamazonpost.com/chevron-ecuador/wp-content/uploads/1995_RAP_in_English_and_Spanish.pdf
03.	2001	<i>Aguinda v. Texaco, Inc.</i> , 142 F. Supp. 2d 534 (S.D.N.Y. 2001) available at http://theamazonpost.com/post-trial-brief-pdfs/brief/50cAguinda1.pdf
04.	2002	<i>Aguinda v. Texaco, Inc.</i> , 303 F.3d 470, 479 (2d Cir. 2002) available at https://www.leagle.com/decision/2002773303F3d470_1734#

¹ All of the documents listed in this index are available in the public domain. However, please do not hesitate to ask if the Special Rapporteurs are unable to retrieve or locate any specific document.

Exhibit No.	Date (MM/DD/YY)	Document
05.	05/07/2003	Complaint, <i>Piaguage v. Texaco Inc.</i> , No. 002-2003-P-CSJNL, Sup. Ct. of Justice – Nueva Loja, May 7, 2003 available in the Superior Court of Justice from Nueva Loja
06.	12/03/2009	<i>Republic of Ecuador v. Chevron Corp.</i> , 09 Civ 9958, Petition to Stay Arbitration, (S.D.N.Y. Dec. 3, 2009) available on Westlaw
07.	03/16/2010	<i>Republic of Ecuador v. Chevron Corp.</i> , 09 Civ. 9958 and 10 Civ. 316 (LBS), Memorandum & Order (S.D.N.Y. Mar. 16, 2010) available at https://www.italaw.com/documents/Ecuadorv.ChevronOrder.pdf
08.	09/02/2010	<i>In re Chevron Corp.</i> , Civ. Nos. 10-MC-21/JH/LFG, 10-MC-22 JH/LFG, Amended Memorandum Opinion and Order Authorizing Discovery (D.N.M. Sept. 2, 2010) available on Westlaw
09.	11/10/2010	<i>In re Chevron Corp.</i> , 10 MC 00002 (LAK), Opinion (Corrected), at 47 (S.D.N.Y. Nov. 10, 2010) (Kaplan, J.) available on Westlaw
010.	02/03/2011	<i>In re Chevron Corp.</i> , No. 10-2815, Opinion of the Court, at 28 (3d Cir. Feb. 3, 2011) available at http://theamazonpost.com/post-trial-brief-pdfs/brief/51aInreChevronCorp_633.pdf
011.	2011	<i>Republic of Ecuador v. Chevron Corp.</i> , 638 F.3d 384 (2d Cir. 2011) available at http://theamazonpost.com/post-trial-brief-pdfs/brief/52zRepublicofEcuador1_638.pdf
012.	02/09/2011	<i>Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador</i> , PCA Case No. 2009-23, Tribunal’s Order on Interim Measures § E (Feb. 9, 2011) available at https://www.italaw.com/sites/default/files/case-documents/ita0167.pdf

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013.	03/07/2011	<i>Chevron Corp. v. Donziger</i> , 768 F. Supp. 2d 581 (S.D.N.Y. Mar. 7, 2011) available at https://www.earthrights.org/sites/default/files/documents/Chevron-v-Donziger-preliminary-injunction_0.pdf
014.	03/11/2011	<i>In re Yaiguaje</i> , Case No. 10-MC-80324 CRB (EMC), Order (N.D. Cal. Mar. 11, 2011) available on Westlaw
015.	08/31/2011	<i>Chevron Corp. v. Page</i> , Civ. Act. RWT-11-1942, Hr'g Tr. at 10:16-11:23 (Day, Mag. J.) (D. Md. Aug. 31, 2011) available on Westlaw
016.	01/03/2012	Judgment of the Provincial Court of Justice of Sucumbios, Proceeding No. 2011-0106, Jan. 3, 2012 available at http://chevrontoxico.com/assets/docs/2012-01-03-appeal-decision-english.pdf
017.	01/25/2012	<i>Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador</i> , PCA Case No. 2009-23, First Interim Award on Interim Measures (Jan. 25, 2012) available at https://www.italaw.com/sites/default/files/case-documents/ita0173.pdf
018.	02/09/2012	Request for Precautionary Measures Indicated to the Republic of Ecuador, Inter-American Commission on Human Rights, Feb. 9, 2012 available from the IACHR
019.	02/23/2012	Letter from the Inter-American Commission on Human Rights to Lago Agrio Plaintiffs' Legal Representatives in <i>Aguinda et al. v. Chevron Corp.</i> , Feb. 23, 2012 available from the IACHR
020.	02/16/2012	<i>Chevron Corp. and Texaco Petroleum Co.</i> , PCA Case No. 2009-23, Second Interim Award on Interim Measures (Feb. 16, 2012) available at https://www.italaw.com/sites/default/files/case-documents/ita0174_0.pdf

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021.	02/27/2012	<i>Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador</i> , PCA Case No. 2009-23, Third Interim Award on Jurisdiction and Admissibility (Feb. 27, 2012) available at https://www.italaw.com/sites/default/files/case-documents/ita0175.pdf
022.	03/02/2012	Letter from the Lago Agrio Plaintiffs' Legal Representatives to the Inter-American Commission on Human Rights, Mar. 2, 2012, available from the IACHR
023.	05/30/2012	<i>Yaiguaje v. Chevron Corp.</i> , Statement of Claim, Ontario Superior Court of Justice, May 30, 2012 available at https://www.italaw.com/sites/default/files/case-documents/ita0934.pdf
024.	06/12/2012	<i>In re Chevron Corp.</i> , Case No. 11-24599-CV-COOKE/TURNOFF, Order and Recommendation (S.D. Fla. June 12, 2012) available on Westlaw
025.	07/31/2012	<i>Chevron Corp. v. Donziger</i> , No. 11 Civ. 0691 (LAK), Opinion on Partial Summary Judgment Motion (S.D.N.Y. July 31, 2012) (Kaplan, J.) available on Westlaw
026.	11/21/2012	<i>Aguinda v. Chevron Corp.</i> , Nat'l Civ. Tr. Ct. (Arg.), Exequatur Complaint, Nov. 21, 2012 available in the National Civil Court of Argentina
027.	02/07/2013	<i>Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador</i> , PCA Case No. 2009-23, Fourth Interim Award on Interim Measures (Feb. 7, 2013) available at https://www.italaw.com/sites/default/files/case-documents/italaw1274.pdf
028.	02/18/2013	Criminal Complaint, Provincial Prosecutor's Office of Sucumbíos, Feb. 18, 2013 available from the Provincial Prosecutor's Office of Sucumbíos

Exhibit No.	Date (MM/DD/YY)	Document
029.	02/21/2013	<i>Chevron Corp. v. Donziger</i> , 11 Civ. 0691 (LAK), Memorandum Opinion (Corrected) (S.D.N.Y. Feb. 21, 2013) <i>available</i> on Westlaw
030.	03/21/2013	Witness Statement of Douglas Beltman, Mar. 21, 2013 (“Beltman Witness Statement”) <i>available</i> at https://www.scribd.com/document/135569522/Declaration-of-Douglas-Beltman-former-top-environmental-expert-for-Ecuadorians-suing-Chevron#scribd
031.	03/21/2013	Witness Statement of Ann Maest, Mar. 21, 2013 (“Maest Witness Statement”) <i>available</i> at http://theamazonpost.com/chevron-ecuador/wp-content/uploads/Maest-Witness-Statement.pdf
032.	04/16/2013	Declaration of Christopher Bogart, <i>Chevron Corp. v. Donziger</i> , 11 Civ. 0691 (LAK) (SDNY Apr. 16, 2013) (“Bogart Declaration”) <i>available</i> at https://www.scribd.com/document/136497227/Declaration-of-Burford-Capital-CEO-Christopher-Bogart
033.	05/01/2013	<i>Yaiguaje v. Chevron Corp.</i> , 2013 ONSC 2527, Superior Court of Justice of Ontario, May 1, 2013 <i>available</i> at https://www.italaw.com/sites/default/files/case-documents/italaw1401.pdf
034.	05/08/2013	David L. Russell Affidavit, May 8, 2013 (“Russell Affidavit”) <i>available</i> in the U.S.D.C. Southern District of New York
035.	06/04/2013	Order from the Supreme Court of Argentina, June 4, 2013 <i>available</i> at https://www.italaw.com/sites/default/files/case-documents/italaw1486.pdf
036.	07/25/2013	Letter from Professor Cassel to the UN Human Rights Commission Working Group, July 25, 2013

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037.	08/19/2013	<i>In re Yaiguaje</i> , Case Nos. 11-mc-80110 CRB (NC), 11-mc-80087 CRB (NC), Order (N.D. Cal., Aug. 19, 2013) available on Westlaw
038.	09/17/2013	<i>Chevron Corp. and Texaco Petroleum Co. v. Republic of Ecuador</i> , PCA Case No. 2009-23, First Partial Award on Track 1 (Sept. 17, 2013) available at https://www.italaw.com/sites/default/files/case-documents/italaw1585.pdf
039.	10/07/2013	<i>Chevron Corp. v. Donziger</i> , No. 11 Civ. 0691 LAK, 2013 WL 5526287 (S.D.N.Y. Oct. 7, 2013) available on Westlaw
040.	11/12/2013	Opinion of the Ecuadorian National Court of Justice, Proceeding No. 174-2012, Nov. 12, 2013 available in the Ecuadorian National Court of Justice
041.	12/17/2013	<i>Yaiguaje v. Chevron Corp.</i> , 2013 ONCA 758, Court of Appeal for Ontario, Dec. 17, 2013 available from the Court of Appeal for Ontario
042.	12/23/2013	Extraordinary Action for Protection filed on behalf of Chevron Corp. before the Constitutional Court, Nat'l Ct. of Justice – Specialized Civ. and Comm. Div., Dec. 23, 2013 available from the Specialized Civil and Commercial Division of the National Court of Justice
043.	03/14/2014	<i>Chevron Corp. v. James Russell DeLeon and Torvia Limited</i> , Claim No. 2012-C-232, Ruling (Supreme Court of Gibraltar, Mar. 14, 2014) available from the Supreme Court of Gibraltar
044.	04/29/2014	<i>Chevron Corp. v. Donziger</i> , 11 Civ. 0691 (LAK), Order (S.D.N.Y. Apr. 29, 2014) available on Westlaw

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045.	05/07/2014	Statement by Patton Boggs, May 7, 2014 <i>available at</i> http://www.theamazonpost.com/wp-content/uploads/Statement-by-Patton-Boggs-5.7.14.pdf
046.	05/07/2014	<i>Patton Boggs LLP v. Chevron Corp.</i> , Case No. 12-cv-9176 (LAK), Stipulation and [Proposed] Order of Dismissal With Prejudice (S.D.N.Y. May 7, 2014), <i>available at</i> http://www.theamazonpost.com/wp-content/uploads/2014-05-07-Executed-Stipulation-and-Exhibit-A.pdf
047.	06/05/2014	<i>Chevron Corp. v. Donziger</i> , 11 Civ. 0691 (LAK), Order to Show Cause for an Order Further Protecting the Confidential Declaration of Doe 3 and Granting Leave to Supplement the Record with Doe 3’s Declaration (S.D.N.Y. June 5, 2014) <i>available on</i> Westlaw
048.	06/18/2014	<i>Chevron Corp. v. Amazonia Recovery Ltd. and Woodsford Litigation Funding, Ltd.</i> , Claim No. 2014-C-110, Particulars of Claim, Supreme Court of Gibraltar, June 18, 2014 <i>available in the</i> Supreme Court of Gibraltar
049.	03/04/2014	<i>Chevron Corp. v. Donziger</i> , 11 Civ. 0691, Opinion (S.D.N.Y. Mar. 4, 2014) (“RICO District Court Opinion”) <i>available at</i> http://www.theamazonpost.com/wp-content/uploads/Chevron-Ecuador-Opinion-3.4.14.pdf
050.	07/30/2014	<i>Chevron Corp. v. DeLeon and Torvia Ltd.</i> , Claim No. 2012-C-232, Defence and Counterclaim of the First and Second Defendants, (Supr. Ct. Gibraltar July 30, 2014) <i>available in the</i> case files of the Supreme Court of Gibraltar
051.	10/08/2014	Brief of Amici Curiae Human Rights and Anti-Corruption Jurists in Partial Support of Plaintiff- Appellee and Affirmance, <i>Chevron Corp. v. Donziger</i> , 14-0826-cv(L) (2d Cir. Oct., 8, 2014) <i>available on</i> Westlaw

Exhibit No.	Date (MM/DD/YY)	Document
052.	05/04/2015	<i>Chevron Corp. v. Woodford Litigation Funding Ltd.</i> , Claim No. 2014-C-110, Notice of Discontinuance, Supreme Court of Gibraltar, May 4, 2015 <i>available</i> in the case files of the Supreme Court of Gibraltar
053.	05/11/2015	<i>Aguinda v. Chevron Corp.</i> , Opinion No. 2811/2015 regarding Contested Foreign Judgment No. 8.542 – Special Court, Federal Prosecution Service of the Attorney General of Brazil, May 11, 2015 <i>available</i> from the Special Court, Federal Prosecution Service of the Attorney General of Brazil
054.	06/16/2015	<i>Huani v. Donziger</i> , 2015 NY Slip Op 05110, (N.Y. App. Div. June 16, 2015) <i>available</i> at http://www.leagle.com/decision/In%20NYCO%2020150616289/HUANI%20v.%20DONZIGER
055.	09/04/2015	<i>Chevron Corp., v. Yaiguaje</i> , 2015 SCC 42, Supreme Court of Canada, Sept. 4, 2015 <i>available</i> at https://www.italaw.com/sites/default/files/case-documents/italaw4406.pdf
056.	12/09/2015	<i>Chevron Corp. v. Amazonia Recovery Ltd.</i> , Claim No. 2014- C-110, Order for Judgment Including Final Injunction, Supreme Court of Gibraltar, Dec. 9, 2015 <i>available</i> at http://theamazonpost.com/wp-content/uploads/2015/12/2015-12-09-Court-Judgment.pdf
057.	01/20/2016	<i>Republic of Ecuador v. Chevron Corp.</i> , Case No. C/09/477457 / HA ZA 14-1291, Judgment, District Court of the Hague, Jan. 20, 2016 <i>available</i> at https://www.italaw.com/sites/default/files/case-documents/italaw7104.pdf
058.	08/30/2010	<i>Chevron Corp. v. Camp</i> , Nos. 1:10-mc-27, 1:10-mc-28, 2010 WL 3418394 (W.D.N.C. Aug. 30, 2010) <i>available</i> on Westlaw

Exhibit No.	Date (MM/DD/YY)	Document
059.	04/18/2016	<i>Aguinda v. Chevron Corp.</i> , Civ. Ct. 61, Order Directing Service on Plaintiffs’ Counsel Motion to Withdraw, Apr. 18, 2016 <i>available</i> on Westlaw
060.	08/08/2016	<i>Chevron Corp. v. Donziger</i> , Docket Nos. 14-0826(L), 14-0832(C), Decision (2d Cir. Aug. 8, 2016) (“Second Circuit Decision”) <i>available</i> at http://online.wsj.com/public/resources/documents/2016_0808_chevron_donziger.pdf
061.	10/05/2016	<i>Chevron Corp. v. Aguinda</i> , Petition No. 9.815/DF, Opinion, Federal Prosecutor’s Office – Office of the Attorney General of Brazil, Oct. 5, 2016 <i>available</i> in the Federal Prosecutor’s Office – Office of the Attorney General of Brazil
062.	11/09/2016	<i>Chevron Corp. v. Donziger</i> , 11 Civ. 0691 (LAK), Order (S.D.N.Y. Nov. 9, 2016) <i>available</i> on Westlaw
063.	10/16/2013	<i>Chevron Corp. v. Donziger</i> , Case No. 11 Civ. 0691 (LAK), Declaration of David L. Russell (S.D.N.Y. Oct. 16, 2013) (“Russell Declaration”) <i>available</i> at http://theamazonpost.com/chevron-ecuador/wp-content/uploads/David-L.-Russell-Witness-Statement1.pdf
064.		Fed. R. Civ. P. 52(a)(6) <i>available</i> at https://www.law.cornell.edu/rules/frcp/rule_52
065.		28 U.S.C.A. § 1782 <i>available</i> at https://www.law.cornell.edu/uscode/text/28/1782
066.	02/16/2015	“Financial Backer of Fraudulent Ecuador Litigation Withdraws Support, Settles,” Press Release, CHEVRON.COM, Feb. 16, 2015, <i>available</i> at https://www.chevron.com/stories/Financial-Backer-of-Fraudulent-Ecuador-Litigation-Withdraws-Support-Settles .

Exhibit No.	Date (MM/DD/YY)	Document
067.		Biography of Hon. Amalya L. Kearse, <i>available at</i> http://www.ca2.uscourts.gov/judges/bios/alk.html
068.		Biography of Hon. Barrington D. Parker, <i>available at</i> http://www.ca2.uscourts.gov/judges/bios/bdp.html
069.		Biography of Hon. Richard C. Wesley, <i>available at</i> http://www.ca2.uscourts.gov/judges/bios/rcw.html
070.	12/2016	Exhibit 70, Resume of Professor Douglass Cassel, Dec. 2016, <i>available at</i> http://law.nd.edu/assets/220467/fullsize/resgenupdtd.pdf
071.		Allan R. Brewer-Carías Curriculum Vitae, <i>available at</i> http://www.brewercarias.com/Resume.aspx?lang=en .
072.		Biography of Lucinda A. Low Biography, <i>available at</i> http://www.steptoec.com/professionals-Lucinda_Low.pdf
073.		Biography of Robert Goldman, <i>available at</i> https://www.wcl.american.edu/faculty/goldman
074.		Biography of Thomas Buergenthal, <i>available at</i> https://www.law.gwu.edu/thomas-buergenthal
075.	10/17/2013	<i>Chevron Corp. v. Donziger</i> , 11 Cv. 0691 (LAK), Trial Tr. 339:10-11 (S.D.N.Y. Oct. 17, 2013) (Russell) <i>available</i> in the case files of the U.S.D.C. Southern District of New York

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076.	04/28/2008	N.Y. C.P.L.R. 5304 (McKinney 2008) available at http://theamazonpost.com/wp-content/uploads/62b_NYCPLR5304(b).pdf
077.	06/16/2015	<i>Huani v. Donziger</i> , 46 Misc. 3d 534 (Sup. Ct. N.Y. County, Aug., 29, 2014) available at https://scholar.google.com/scholar_case?case=13643823959461488429&q=Huani+v.+Donziger,+46+Misc.+3d+534&hl=en&as_sdt=6,33&as_vis=1
078.	10/16/2013	<i>Chevron Corp. v. Donziger</i> , 11 Cv. 0691 (LAK), Trial Tr. 304:5-25, 309:4-8 (S.D.N.Y. Oct. 16, 2013) (Russell), available in the case files of the U.S. District Court for the Southern District of New York
079.		Chevron Human Rights Policy 520 available at https://www.chevron.com/-/media/chevron/corporate-responsibility/documents/AboutOurHumanRightsPolicy.pdf
080.	03/30/2016	Argentine Public Prosecutor Opinion, Mar. 30, 2016 (Formerly exh. 58) available from the Public Prosecutor's Office in Argentina
081.	12/20/2016	Argentine Public Prosecutor Opinion, Dec. 20, 2016 (formerly exh. 63) available from the Public Prosecutor's Office in Argentina