

Rights Action
info@rightsaction.org
March 30, 2014

Denouncing harrassment and threats against Qeqchi plaintiffs in Guatemala related to lawsuits in Canada against Hudbay Minerals and CGN (Guatemalan Niquel Company)

- Letter to: SEPREM (Secretaria Presidencial de la Mujer), Guatemala, from: Klippensteins Barristers and Solicitors, Canada



March 28, 2014

Licenciada Elizabeth Quiroa Cuellar
SEPREM (Secretaria Presidencial de la Mujer)
Attention: Damaris Montepeque, asistente,
dmontepeque@seprem.gob.gt
6a. Av, 1-27, zona 4
Edificio mini, 4o nivel, ala sur,
Guatemala, Guatemala

Dear Licenciada Quiroa,

We are Canadian lawyers for eleven women from the community of Lote Ocho: Margarita Caal Caal; Rosa Elbira Coc Ich; Olivia Asig Xol; Amalía Cac Tiul; Lucia Caal Chún; Luisa Caal Chún; Carmelina Caal Ical; Irma Yolanda Choc Cac; Elvira Choc Chub; Elena Choc Quib; and Irma Yolanda Choc Quib. We are also Canadian lawyers for Angelica Choc and German Chub Choc.

Our clients are plaintiffs in the lawsuits of 'Margarita Caal Caal v. Hudbay Minerals inc,' regarding the sexual assault of eleven women from Lote Ocho; 'Angelica Choc v Hudbay Minerals Inc', regarding the murder of her husband Adolfo Ich; and 'German Chub v Hudbay Minerals Inc.', regarding the shooting and paralysis of German Chub. These three lawsuits are currently proceeding before the Superior Court of Justice in Toronto, Canada.

I understand that your office is seeking further information regarding the harassment of our clients that took place last year. We write your esteemed office to provide you with further details regarding that harassment, to provide up-to-date and accurate information regarding the lawsuits in Canada, and to respectfully request that your office take appropriate steps to prevent future interference with our clients' legal right to seek access to justice.

Concerns Regarding Harassment And Interference With Canadian Legal Proceedings

In September of last year, Cory Wanless, a lawyer from our office, traveled to El Estor, Guatemala where he conducted a series of meetings with our clients, with several dozen other members of the community of Lote Ocho, and with Guatemalans who have been working closely with the community of Lote Ocho.

At these meetings, he received disturbing information regarding pressures brought to bear against our clients because of the lawsuit of Margarita Caal Caal v. Hudbay Minerals. In particular, starting in early 2013, our clients from Lote Ocho began to be pressured to withdraw from their lawsuit in Canada. These pressures culminated with a series of meetings called by the mining company Compañía Guatemateca de Níquel ("CGN") that were attended by CGN employees, community leaders from Lote Ocho and some of our clients. These meetings were conducted at CGN offices. At these meetings, our clients were accused of lying and pressured to withdraw their allegations against CGN and their Canadian lawsuit.

Particularly concerning was a meeting that we understand was held on Saturday, August 3, 2013. Four of our clients were summoned to the offices of CGN and interrogated by CGN employees about the rapes suffered by them. The pressure was so intense that it caused one of our clients to faint. CGN employees then threatened to bring criminal defamation charges in Guatemala against our clients if they did not withdraw their allegations.

Other pressure tactics employed by CGN personnel at these meetings include telling community leaders that families in Lote Ocho would receive land only if the community leaders could convince our clients to withdraw their lawsuits in Canada, falsely stating that Rosa Coc, Margarita Caal and others who traveled to Canada, at the request of Hudbay in November 2012, were paid significant amounts of money while in Canada.

CGN employees who have been directly involved in this harassment and pressuring include Juan Salazar, Carlos Pop, and a man known as "Duglas", all of whom apparently work as part of CGN's community relations team.

In the time since these meetings were conducted, there has been further harassment of our clients, including Margarita Caal and Rosa Coc – two of the highest profile complainants. Margarita Caal and others have been called "prostitutes", and unknown men have photographed Rosa Coc's house. Our clients have found these actions to be extremely threatening.

These actions on the part of CGN's employees are a violation of our clients' legal right to pursue legal action for harms they allege were caused by Hudbay Minerals and committed by CGN

personnel. As you can appreciate, it is entirely inappropriate for CGN or anyone else to make any attempt to undermine or interfere with our clients' legal right to participate in legal proceedings in Canada. In particular, we strongly protest any attempt by CGN employees to link the on-going negotiations between CGN and Lote Ocho community regarding land to the independent right of our clients to seek legal remedy in Canada for the sexual assaults suffered by them.

We respectfully request that your office provide support to help stop such interference. In particular, we respectfully request that your office take appropriate steps to prevent this kind of interference and harassment from happening in future.

Information On The Legal Proceedings In Canada

For your information, and in the interest of providing accurate and up-to-date information, I have included below further information regarding the lawsuits in Canada.

In the lawsuit of Margarita Caal Caal v. Hudbay Minerals, our clients assert that they were raped by security personnel employed by CGN during the forced eviction of Lote Ocho on January 17, 2007. This lawsuit is proceeding in the Superior Court of Justice, together with the lawsuits of Angelica Choc v. Hudbay Minerals, regarding the killing of her husband Adolfo Ich Chaman and German Chub Choc v. Hudbay Minerals, regarding the shooting and paralysis of German Chub (collectively "the Hudbay lawsuits").

These three lawsuits seek reparations under Canadian law for the harms suffered by our clients related to the Fenix mining project, located in El Estor, Guatemala, and formerly owned by Canadian mining company Hudbay Minerals through its Guatemalan subsidiary CGN.

The claims are primarily against the Canadian mining company that used to own the mine, Hudbay Minerals, though there are also claims against its Guatemalan subsidiary CGN are also being heard in Canada.

The Hudbay lawsuits are in the preliminary phase. Hudbay continues to defend against the lawsuits in court and to date has not paid any of the plaintiffs anything for any of the harm suffered by them. To be clear, none of the plaintiffs have received any money from anyone for their participation in the lawsuit.

In other words, any rumors to the effect that Margarita Caal, Rosa Coc, Angelica Choc, German Chub, or any other plaintiffs received any payments for participation in the lawsuits are absolutely false.

Recent Steps In The Lawsuit Include

In November 2012, Hudbay Minerals required Margarita Caal Caal and Rosa Elbira Coc Ich from Lote Ocho, along with Angelica Choc and German Chub, to travel to Toronto to provide witness testimony for use in court. Contrary to the assertions of CGN, none of the plaintiffs who traveled to Canada received any payment during their trip to Canada.

On March 4 and 5, 2013, a court hearing was held on the preliminary issue of whether the lawsuit could proceed in Canadian courts.

On July 22, 2013, Justice Carole Brown of the Superior Court of Justice issued a judgment regarding the March 2013 hearing. Justice Brown ruled that the lawsuits can proceed, and will therefore be heard in Canada. This judgment is a major victory for our clients, and is the first time in Canadian

history that a lawsuit against a Canadian company regarding human rights abuse abroad has been permitted to proceed to trial in Canadian courts.

In February 2014, Hudbay Minerals and CGN filed formal statements of defence in these lawsuits.

CGN Is A Participant In The Hudbay Lawsuits, Not Just A Subsidiary

CGN is a participant in the legal proceedings in Canada, and is represented by the same Canadian lawyers as Hudbay minerals. In particular, CGN is represented by Robert Harrison and Tracy Pratt of the firm Fasken Martineau Dumoulin, based in Toronto. As an interested party in the lawsuit, CGN has complete knowledge regarding the status of the litigation in Canada. Moreover, as an interested party and defendant in the litigation, CGN should know that it is highly improper to make any attempt to threaten our clients with potential criminal charges, or to pressure them to abandon their claims in Canadian courts.

Information Regarding The Guatemalan Criminal Trial Against Mynor Padilla For The Murder Of Adolfo Ich

In addition to the civil lawsuit in Canada against Hudbay regarding the killing of Adolfo Ich, the former head of security for the Fenix mine, Mynor Padilla, is being tried in Guatemala for the murder of Adolfo Ich and the shooting and wounding of a number of other individuals. After years of not detaining Mr. Padilla and then legal delays, Mr. Padilla's trial is currently scheduled to begin in Guatemala in early April 2014.

Please feel free to contact our office if you have any questions, or require any further information regarding the lawsuits in Canada. We can be reached by email at: murray.klippenstein@klippensteins.ca or cory.wanless@klippensteins.ca, or by telephone at 1-416-598-0288.

Sincerely,

Murray Klippenstein and W. Cory Wanless

Canadian lawyers for Margarita Caal Caal; Rosa Elbira Coc Ich; Olivia Asig Xol; Amalía Cac Tiul; Lucia Caal Chún; Luisa Caal Chún; Carmelina Caal Ical; Irma Yolanda Choc Cac; Elvira Choc Chub; Elena Choc Quib; Irma Yolanda Choc Quib; Angelica Choc; German Chub Choc.

Cc: Licenciada Astrid franco bailey, auxiliar departamental de Izabal, PDH (procuraduría de derechos humanos): auxizapdh@gmail.com

Tax-deductible donations (canada & u.s.)

To support Qeqchi efforts to defend their environment and community well-being and attain justice for the harms and violations suffered, make check payable to "rights action" and mail to:

- United states: box 50887, washington dc, 20091-0887
- Canada: (box 552) 351 queen st. E, toronto on, m5a-1t8
- Credit-card donations can be made (canada & u.s.): <http://www.rightsaction.org/tax-deductible-donations>

More Info

- About the trial and, more generally, the community defense struggles of Qeqchi people in Guatemala: Grahame Russell, info@rightsaction.org
- About the lawsuits against Hudbay/ CGN in Canada: www.chocversushudbay.com

“Defensora”

This 2013 award winning film documents the lives and vision of the Qeqchi people and their efforts to seek justice in Canadian courts against Hudbay minerals and CGN.

- Trailer /screenings /information: www.defensorathefilm.com

Join An Educational Delegation To Guatemala

- May 31-June 8, 2014: “Mining injustice ~versus~ community well-being and the environment”, in the context of on-going struggles for truth, memory and justice for the genocides and repression of the past. Hosted by rights action and SMAK (Sustainable Mining Alliance of the Kootenays). Contact: info@rightsaction.org
- July 3-10, 2014: “Mayan communities & environmental well-being ~ versus ~ large-scale mining and hydroelectric dam projects, in an unjust global economic order”, in the context of on-going struggles for truth, memory and justice for the genocides and repression of the past. Hosted by rights action and Mayflower United Church of Christ (Minneapolis). Contact: info@rightsaction.org

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