

Mayan Q'eqchi' plaintiffs resist Hudbay Minerals' latest attack on landmark lawsuits

Hudbay has likely spent millions of dollars on lawsuits

<https://mailchi.mp/rightsaction/mayan-plaintiffs-resist-hudbay-minerals-attack-on-precedent-setting-lawsuits>

BELOW: Communique-update by lawyers for the Plaintiffs, Cory Wanless and Murray Klippenstein

“Hudbay has likely spent millions of dollars litigating the case. [...] One of its lawyers at Fasken, Robert Harrison, billed at an hourly rate that equated to \$925 an hour in 2015, and plaintiff lawyers involved in the case said litigation has involved hundreds of hours at minimum.”

(“Hudbay Minerals seeks to 'extract value from its own camp' before joining M&A frenzy”, Financial Post, January 23, 2020, by Gabriel Friedman, <https://business.financialpost.com/commodities/mining/hudbay-minerals-seeks-to-extract-value-from-its-own-camp-before-joining-ma-frenzy>)



Lawyers Murray Klippenstein and Cory Wanless, and Grahame Russell (Rights Action, holding Amalia's new born) at Toronto Pearson Airport, November 2017, meeting Angelica Choc (plaintiff, widow of Adolfo Ich) and Amalia Cac, Carmelina Caal and Elena Choc (plaintiffs, gang-rape victims), as they arrive in Canada to be examined under oath (deposed) by Hudbay's team of lawyers.

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Mayan Q'eqchi' Plaintiffs successfully resist Hudbay Minerals' latest attack on precedent-setting corporate accountability lawsuit

Prepared by Cory Wanless and Murray Klippenstein, lawyers for the Plaintiffs

On January 21, 2020, Hudbay Minerals lost its attempt to block the Mayan Q'eqchi' Plaintiffs from amending their lawsuit to add new details about the assaults and rapes suffered by them in Guatemala, allegedly perpetrated by mine company private security forces, military and police.

In a judgment that found for the Plaintiffs on all points, the Superior Court of Justice confirmed that the Plaintiffs can and are suing Hudbay not only for the rapes committed by the mining company's security personnel, but also for the rapes committed at the same time by Guatemalan police and military. [Read the full judgment.](#)

Key excerpts from the judgment include:

"Inherent in these allegations is that Skye [the then mine owner, subsequently amalgamated with Hudbay] attempted to influence government officials who were responsible for the police and military in order to have them carry out the very evictions during which the alleged sexual assaults occurred in a country with a corrupt justice system where violence and sexual assault was prevalent." [para. 37]

"The Disputed Amendments... add clarifying references to the police and military together with additional facts and particulars regarding the alleged role and involvement of Skye and CGN in seeking the evictions and their control, decision making, logistical support, co-ordination and payments to the police and the military with respect to the forced evictions." [para 38]

"I am not persuaded that the Plaintiffs would be unable to establish that it was reasonably foreseeable to a party in Skye's position that by requesting, influencing, funding, participating in and supporting the evictions in a country with a corrupt justice system and a history of sexual assaults during military operations and taking no steps to prevent the violence, the alleged sexual assaults would occur." [para 60]

The amendments that the court has permitted were made to provide further clarification and details regarding the deep involvement of Skye Resources Inc. (now part of Hudbay Minerals) in the violent eviction of the Mayan Q'eqchi' community on January 17, 2007 that led to the rapes of the Plaintiffs by the men conducting the eviction.

These amendments include further details that were learned during the discovery process (of document disclosure and examination under oath of company executives) that help demonstrate that Skye Resources (now part of Hudbay):

- took a highly aggressive and confrontational strategy in dealing with the land conflict with the Plaintiffs' Q'eqchi' community in remote Guatemala;
- refused to engage in good faith negotiations or mediation with the Plaintiffs' community;
- aggressively sought forced evictions of the Plaintiffs' community which had an inherent high risk of violence;
- manipulated and abused the legal process in Guatemala to obtain court orders for eviction of the Plaintiffs' community;
- proceeded with evictions that involved use of force despite knowing that Guatemalan police and military had a record of violence and abuse at evictions;
- proceeded with evictions despite the fact that all of the Defendants' own corporate consultants and advisers unanimously advised against a forced eviction because of the risk of violence at such an eviction;
- worked extremely closely with the Guatemalan police and military as an integral part of an overall team in preparation for the forcible eviction;
- paid large undercover monetary payments to the Guatemalan police and military for their services in the forcible evictions;
- specifically arranged for a second later forced eviction of the Plaintiffs' community of Lote Ocho despite there being no pressing need for such an eviction, and without taking any precautions to ensure that the second eviction would be conducted peacefully;
- had full de facto control over whether and when the second forced eviction of the Plaintiffs' community of Lote Ocho would be carried out by Guatemalan police, military and private security personnel;
- despite the use of violence during earlier evictions in November and January (and in particular the burning of homes down to the ground with gasoline), the Defendants did not take any steps to re-evaluate the strategy of seeking forced evictions, or the role that the police and military would play at the second eviction of Lote Ocho on January 17, 2007; and
- acted closely with the police and military in the evictions themselves as an integral part what amounted to a de facto military operation.

For further information regarding the additional details being added to the claim, see the Amended Statement of Claim (which the Court has now ordered can be filed), or the Summary of Amendments.

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More information

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On-going funds needed to support the Q'eqchi' plaintiffs in their justice and territorial defense struggles in Canada and Guatemala. [Make check payable to "Rights Action" and mail to:](#)

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